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## COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT

\* \* \* \* \*

COMMONWEALTH OF MASSACHUSETTS

vs.

KAREN READ

\* \* \* \* \*

Indictment No.  
2282CR00117

Day 37 - Trial with Jury  
Before the Honorable Beverly Cannone

APPEARANCES:

For The Commonwealth:  
BY: Adam Lally  
Laura McLaughlin  
Assistants District Attorney

For Karen Read:  
BY: Alan Jackson  
David Yannetti  
Elizabeth Little  
Attorneys at Law

Norfolk Superior Courthouse  
Dedham, Massachusetts  
Tuesday, June 25, 2024

Paula M. Mills  
Retired Certified Court Reporter  
and Court Transcriptionist

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P R O C E E D I N G SJune 25, 2024

(Court in session at 9:19 a.m.)

(Defendant present. Jury not present.)

THE COURT: I need to see counsel at sidebar.

Mr. Yannetti, I need you up here.

MR. YANNETTI: If I could just have one  
second, Your Honor?

THE COURT: Okay.

(Whereupon, there was a sidebar conference as  
follows:)

Court Order: Jurors or Juror Issues

Court Order: Jurors or Juror Issues



Court Order: Jurors or Juror Issues

MS. MC LAUGHLIN: Your Honor, there are some exhibits, 604, that was introduced and the disk was blank.

THE COURT: Okay.

MS. MC LAUGHLIN: So I would just like to introduce the new exhibit that contains the video that was previously introduced. If we could just mark this one and I can remove the prior 604 CD?

THE COURT: Okay. I will allow that, just not right now. So let's deal with this because I'd rather focus about the case, just a couple of little things. All right.

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**Court Order: Jurors or Juror Issues**

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**Court Order: Jurors or Juror Issues**

1           You know what? Let's take a recess. I'll  
2           give you some time to think about it.

3           MR. JACKSON: Maybe two minutes, three  
4           minutes.

5           THE COURT: I'm just going to go in my lobby.  
6           (Whereupon, the sidebar conference concluded and  
7           there was a brief recess taken.)

8           (Court resumes.)

9           (Defendant present. Jury not present.)

10          THE COURT: I'll see counsel at sidebar.  
11          (Whereupon, there was a sidebar conference as  
12          follows:)

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Court Order: Jurors or Juror Issues



Court Order: Jurors or Juror Issues

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Court Order: Jurors or Juror Issues

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4 All right. So while we are here, rather than  
5 now going into the matters on this case, I'll say  
6 it in open court, that I'm not going to give a  
7 consciousness of guilt instruction. I think you  
8 all got the message that you weren't persuasive  
9 yesterday in your offer of proof afterwards. So I  
10 am going to give --

11 MR. YANNETTI: A blind squirrel finds an acorn  
12 every once in a while, Judge.

13 THE COURT: -- the *Bowden* instruction. On the  
14 one-hour closing argument, do you want a five-  
15 minute warning? Just think about it. Okay?

16 MR. JACKSON: I don't think I need it. I  
17 think I can do it in 58-59 minutes.

18 THE COURT: Okay. So do you want me to just  
19 stop you?

20 MR. JACKSON: No.

21 MR. YANNETTI: What about a two-minute  
22 warning?

23 MR. JACKSON: Five minutes is fine.

24 THE COURT: And Tori will keep precise time.  
25 She'll stand up and turn to me and I'll say, you

1 have five minutes, Mr. Jackson and Mr. Lally.

2 MR. JACKSON: Thank you, Your Honor. That  
3 would be helpful.

4 THE COURT: And I will let the jurors know  
5 that so they don't think you're being punished in  
6 any way.

7 MR. JACKSON: Thank you.

8 THE COURT: Anything else we need to do before  
9 we start with this?

10 MR. LALLY: No.

11 THE COURT: I think we are ready to begin, but  
12 you are the ones who are getting up and doing the  
13 closing arguments. Are you ready to?

14 MR. LALLY: I am. If I could just ask for  
15 like two minutes for a restroom break before?

16 THE COURT: Sure. We will take that. Do we  
17 have two minutes, Paul, before we start?

18 THE COURT OFFICER: Yes.

19 THE COURT: All right. Yes.

20 MR. LALLY: Thank you.

21 THE COURT: So a five-minute recess.

22 (Whereupon, the sidebar conference concluded and  
23 there was a brief recess taken.)

24 (Court resumes.)

25 (Defendant present. Jury present.)



1           THE CLERK: 22-117, the Commonwealth versus  
2           Karen Read.  
3       (Court resumes.)

4           THE COURT: Good morning again, counsel. Good  
5           morning, Ms. Read. Good morning, jurors.

6           THE JURORS: Good morning (in unison).

7           THE COURT: I don't know how many times I  
8           start in the morning by saying we appreciate your  
9           patience, but today is one of those days. Again,  
10          we appreciate your patience.

11          You may notice that one of your fellow jurors  
12          is not sitting with us today. I can assure you  
13          that that is because of an issue that is just  
14          personal to that juror and has nothing to do with  
15          any concern of any of you. So please disregard  
16          that.

17          I do have to ask you those three questions.  
18          Were you able to follow the instructions and  
19          refrain from discussing this case with anyone since  
20          we left yesterday?

21          Everyone said "yes" or nodded affirmatively.

22          Were you also able to follow the instructions  
23          and refrain from doing any independent research or  
24          investigation into this case?

25          Everyone said "yes" or nodded affirmatively.

1           Did anyone happen to see, hear or read  
2 anything about this case since we left here  
3 yesterday? Okay.

4           So now we are at the point of the trial where  
5 the lawyers get to do their closing arguments for  
6 you. I've given them each an hour to do so, and  
7 they both tell me that they want me to give them a  
8 five-minute warning. I just don't want you to  
9 think I'm scolding them when I give a five-minute  
10 warning. So we will let them do that.

11          When I was a trial lawyer, I tried a lot of  
12 cases in this courtroom. The thing I liked least  
13 about the trial was just before I stood up to give  
14 my closing argument, the judge would say, jurors,  
15 remember, closing arguments are not evidence. But  
16 it's true. So because of that, you have to put  
17 your notebooks away. All right? So if you just  
18 put your notebooks away and just listen, and though  
19 the closing arguments are not evidence, they are  
20 certainly a very important part of the case. And  
21 you've all seen how hard the lawyers have worked  
22 for this long period of time, and we've all noticed  
23 that you've paid great attention throughout the  
24 entire trial. I'd ask that you extend your  
25 courtesy to the closing arguments.

1           In Massachusetts, because the Commonwealth has  
2           the burden of proof, the Commonwealth goes last.  
3           So we will hear now from Mr. Jackson.

4           **CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT**

5           MR. JACKSON: Thank you, Your Honor.

6           Look the other way. Look the other way. Four  
7           words that sum up the Commonwealth's entire case,  
8           four words that sum up the hopes of those who have  
9           tried to deceive you. Conflicts of interest? It  
10          doesn't matter. Just look the other way. Magic  
11          hairs. Magic glass. Look the other way. Late-  
12          night calls and Google searches, falsified  
13          affidavits, inverted videos and butt-dials galore.  
14          Just look the other way.

15          That's what they want. That's what they are  
16          counting on. But the uncontrovertible fact is you  
17          have been lied to in this courtroom, and your job  
18          is to make sure you don't ever, ever look the other  
19          way. Your singular duty is to stare down the  
20          evidence and do it unflinchingly and do it  
21          unwaveringly.

22          You see, you are the only thing standing  
23          between Karen Read and the tyranny of injustice.  
24          It's a job you didn't ask for, probably a job you  
25          didn't want; but it's the greatest responsibility

1 we have as citizens here in America lest the  
2 government stop answering to us and we start  
3 answering to the government. And lo be tied  
4 anyone, anyone of us, anyone of us, who might find  
5 ourselves in the cross hairs of a Michael Proctor.

6 Preparing for today, I was reminded of a  
7 quote. It's a quote about the truth, and I want to  
8 share it with you.

9 "It is of great importance to set a resolution  
10 never to tell an untruth. There is no vice so  
11 mean, so pitiful, so contemptible; and those who  
12 permit themselves to tell a lie once find it much  
13 easier to do it a second time and a third. This  
14 falsehood of the tongue leads to that of the heart  
15 and, in time, it depraves all its good  
16 dispositions."

17 What does that mean? It means that it's been  
18 observed to tell an untruth, to exaggerate, to make  
19 a false claim; it's a cancer. One lie begets  
20 another, and it's a malignancy that grows over  
21 time. And that, folks, is how a coverup is born.  
22 That's how a Massachusetts state trooper says in  
23 whispered tones to his friends when he thought no  
24 one was looking or listening how he would make a  
25 case, how he would make it cut and dry, no matter

1 the truth, how he would make sure to put, quote,  
2 "serious" charges on the girl; in other words, pin  
3 it on the girl.

4 You may ask yourself, how does this happen?  
5 How could this happen? It's 2024. Surely people  
6 aren't going to come to this courtroom, this hall  
7 of justice and lie to us, just give us false  
8 information. They wouldn't do that. They wouldn't  
9 try to cover up the truth.

10 The Alberts, the McCabes, Higgins, Lank,  
11 Michael Proctor, Yuri Bukhenik, Brian Tully. You  
12 don't have to wonder if they would lie to support  
13 their narrative. You need only wonder how many  
14 times they did lie. Over and over and over, they  
15 and others were caught deceiving you, big things,  
16 small things. It really didn't matter. They  
17 feared nothing. They'll look you in the eye and  
18 deny phone calls. They will deny secret meetings.  
19 They will claim that calls are butt-dials and butt-  
20 dials are answered. They will show you a video and  
21 tell you left is right and right is left. They  
22 will magically turn three pieces of plastic into  
23 five right before your eyes.

24 And, even when they are caught with their own  
25 lies, they won't blink. They don't sweat. They

1 will just look you in the eye and demand, pay no  
2 attention. You folks look the other way.

3 Ladies and gentlemen, there was a coverup in  
4 this case, plain and simple. You'll surely say to  
5 yourself, I don't want to believe it. I don't want  
6 to believe that could happen in our community.  
7 But, sadly, over the past eight weeks, you've seen  
8 it right before your eyes.

9 So how does a coverup happen? How could that  
10 happen? Well, let's count the ways, shall we?  
11 Hand pick your investigator. Make sure it's  
12 someone we know, someone on our side. Keep them  
13 close. Offer them help. Offer them a gift. Have  
14 secret friends and family meetings. Get your  
15 stories straight. Delete your call history. Make  
16 mysterious phone calls at 2:22 a.m. Delete Google  
17 searches. Monitor police activity. Get rid of  
18 evidence. Get rid of your dog. Destroy your  
19 phones. Destroy your SIM card.

20 For the investigator, decide on a narrative  
21 early on. Don't go to the crime scene. Don't take  
22 witnesses in for questioning. Question all the  
23 witnesses together. Ignore witnesses who don't fit  
24 your narrative. Allow friends and family to  
25 contact those same witnesses. Don't record

1 interviews.

2 Write vague and false police reports. Omit  
3 witnesses' names. Omit witnesses' interviews  
4 altogether. Don't photograph the evidence. Don't  
5 conduct any forensics. Don't document the  
6 evidence. Don't document the logs. Don't create  
7 any logs whatsoever and don't maintain a chain of  
8 custody. Keep all of the evidence in the hands of  
9 one person and then manipulate that evidence,  
10 including videos. Don't turn over videos. Invert  
11 videos. Turn 4:16 p.m. into 5:30 p.m. in  
12 affidavits. Turn three pieces of taillight into  
13 five pieces of taillight. Delete 42 minutes of  
14 surveillance footage. Hide personal relationships.  
15 Make this case cut and dry and ensure the homeowner  
16 "never sees any shit because he's a Boston cop."  
17 But, most importantly, pick your patsy and pin it  
18 on the girl.

19 It's not that it could happen. It's that  
20 every single one of those things I just mentioned  
21 did happen right in front of you. But this sort of  
22 injustice can't happen in a vacuum. So what about  
23 the prosecution? What about the Commonwealth?  
24 What does it look like when the government picks a  
25 narrative and then tries to form a prosecution

1 around the narrative instead of the other way  
2 around? It looks a lot like this.

3 If you don't have actual evidence, just throw  
4 every single thing you can against the wall to see  
5 what sticks. Drag her through the mud and make  
6 sure you attack her character. And that's what you  
7 saw in this case.

8 The Commonwealth spent much of their time and  
9 resources trying to vilify Karen Read. They  
10 desperately resorted to calling witnesses to talk  
11 about Karen Read and John O'Keefe's arguments.  
12 They even stooped so low as to call the children  
13 and put them through this ordeal, all to say that  
14 John sometimes got upset because Karen was too  
15 kind, too nice, spoiled them too much. Their  
16 arguments illustrated what anybody could imagine is  
17 a normal set of ups and downs for any couple. Even  
18 on January 28th, they talked it out. They  
19 communicated. They worked out their issues and  
20 they had a nice, affectionate evening out with  
21 their friends.

22 And you don't have to take my word for it.  
23 Pull the tape, as they say. Look at the videos.  
24 C.F. McCarthy's, Waterfall.

25 What are the words that every single person



1 who testified in this case used about Karen Read  
2 and John O'Keefe that night? "Getting along." "No  
3 issues." "Good mood." "Happy." "Affectionate."  
4 Even "Lovey-dovey."

5 No issues. No toxicity. They were a loving  
6 couple right up into the time Karen Read dropped  
7 him off and he walked into 34 Fairview. If an  
8 argument with a loved one is a motive for murder,  
9 folks, we are all in trouble, speaking of which,  
10 what is the evidence that John went into the house?

11 The Commonwealth will tell you undoubtedly,  
12 no, he never went in the house. And they'll point  
13 to certain witnesses who they say they didn't see  
14 him go in. Well, the question you have to ask  
15 yourself is can you rely on that?

16 First, these are all people who are related to  
17 or committed to the Alberts in some way or another,  
18 that all-powerful Canton family. It's easy to say,  
19 I didn't see something, because how can that really  
20 be challenged? Some, our second "some," actually,  
21 may not have seen John walk into the house. They  
22 were in the kitchen, as you recall, from Nicole.

23 Third, at least one witness, Brian Higgins,  
24 forgot his narrative at least for a second, and he  
25 admitted a man did, in fact, come into the house.

1 And then, when he was caught and asked to describe  
2 that man, he had to. He was a little bit vague,  
3 but you remember what he said. He was tall with  
4 dark hair. That was a telling slip of the tongue  
5 by Brian Higgins.

6 But what is the real evidence of the unbiased  
7 data, the data that's not connected to the Albert  
8 family? How about John's Apple Health data? It  
9 shows that at 12:21 a.m., an important time, John  
10 arrived. That's established by the monotonic time  
11 clock that you heard about in trial that was on his  
12 phone. And that represents a huge problem for the  
13 Commonwealth. It shows that he took 80 steps and  
14 ascended or descended three flights of stairs at  
15 that time. And that makes perfect sense, doesn't  
16 it? It matches. He walks into the house and goes  
17 directly to the basement. There is your 80 steps  
18 and your descending flights of stairs.

19 The big problem for the Commonwealth is he  
20 wasn't outside at the car, ascending and descending  
21 stairs. He wouldn't climb in on top of the car.  
22 So they will tell you, wait, wait, wait, don't look  
23 at the Apple Health data. Look at this other thing  
24 called Waze. But Rick Green explained that if you  
25 apply the three-minute offset that is built into

1 that monotonic time, it aligns perfectly. They  
2 don't want you to see that. They don't want you to  
3 pay attention. They want you to look the other  
4 way.

5 But even more importantly, at approximately  
6 12:32 a.m., someone holding John's phone takes  
7 another 36 steps and travels 25 meters. Why is  
8 that so important? Because by 12:32 a.m.,  
9 Karen Read was gone. She had already left the  
10 location. She left at 12:30.

11 Trooper Guarino told you that Karen Read's  
12 phone connected to John's WiFi at what time?  
13 12:36. It is undisputed in this case that it's a  
14 six-minute drive on a good day from 34 Fairview  
15 over to One Meadows. She was gone by 12:30, and  
16 John's phone was taking 36 steps and logging 25  
17 meters at 12:32 after she had left. So don't be  
18 fooled. John walked into that house, after which  
19 Karen drove away, and the scientific data all prove  
20 it.

21 But also, Ryan Nagel and Heather Maxon prove  
22 it. In addition to the Apple Health data, Ryan and  
23 Heather both independently testified that they  
24 passed Karen's SUV as they drove away after talking  
25 to Julie, and Karen was alone in the SUV. John was

1 not with her. He wasn't in the car. He wasn't  
2 standing outside the car. He wasn't sitting beside  
3 the car. He wasn't laying on the ground beside the  
4 car. He was nowhere in sight.

5 There is only one other place that John could  
6 have been, and that's in the house, exactly where  
7 the Apple Health data places him. So it all fits.  
8 And Ryan was right behind her, remember, staring at  
9 her taillights, undamaged, brightly lit.

10 And that brings up another difficulty for the  
11 Commonwealth; and that's their star witness,  
12 Jennifer McCabe. You'll recall that Jennifer  
13 McCabe claimed that she was looking out the door,  
14 staring at that SUV over and over and over again  
15 from 12:29 to 12:50. She was very specific about  
16 that time frame. But we know that the SUV was gone  
17 from 34 Fairview by about 12:30. It had to be in  
18 order to connect to the WiFi at 12:36. So  
19 unequivocally, Jennifer McCabe was lying about  
20 watching that SUV, and it makes you wonder why.  
21 And, to add to that deceit, she was also blatantly  
22 lying about the calls to John's phone. You  
23 remember that colloquy back and forth. She said  
24 that every single one of those calls to John's  
25 phone during that time was a butt-dial.

1           How are those lies connected and why are they  
2           connected? Jennifer McCabe knows. Was she butt-  
3           dialing John over and over or was someone looking  
4           for John's phone that went missing?

5           Let's talk for a second about what actually  
6           happened in the time leading up to everyone going  
7           to 34 Fairview. Brian Albert and Brian Higgins  
8           show up drunk at the Waterfall. They had been  
9           drinking in the afternoon.

10          You know about the flirtatious texts that were  
11          sent between Karen Read and Brian. Higgins was  
12          clearly pining over Karen. But, for her, the  
13          flirtation had ran its course. It was done. She  
14          was happy and committed to John. You can see that  
15          in her actions with John that night. You don't  
16          have to guess.

17          Brian Higgins, however, you can see in his  
18          actions he wasn't quite so satisfied and he wasn't  
19          done. His text message, um, well, meaning, what  
20          the hell, Karen, what about me? He seemed  
21          aggressive. He seemed annoyed. He didn't like  
22          being ignored. That was pretty clear.

23          So he's five or six whiskeys deep into the  
24          night at this time, and she continued to ignore  
25          him. And then, oddly, Higgins, who doesn't know

1 John all that well, seems to want to coax John to  
2 34 Fairview.

3 I draw your attention to the Waterfall tape if  
4 you want to take another look at it. It's at the  
5 11:57 mark, between 11:57 and 11:58. Take a look  
6 at that tape. He is just about to leave. Higgins  
7 is just about to leave. He points over at John and  
8 he motions for him. Come on. Come on. Come with  
9 me. And then at 12:20, he texts him, you coming  
10 here? This is a person he doesn't really know and  
11 didn't really talk to that entire night.

12 Ask yourself, why was Higgins so insistent  
13 that John go to 34 Fairview that night?

14 And then there is that sparring and fighting  
15 that he and Brian Albert were engaged in. Of all  
16 the things they could be doing, this is what they  
17 were doing just minutes before John O'Keefe walked  
18 into that house at 34 Fairview.

19 We know that once John actually did walk in  
20 the door, it's about two steps, four feet or so,  
21 two steps for an adult male to reach that basement  
22 door. Remember, everybody was gathered in the  
23 kitchen. That's what Nicole Albert said. And  
24 every single witness agreed that at some point,  
25 Brian Higgins and Brian Albert left the group and

1       went to another room. Where did they go? Where  
2       did they go together?

3               Another important point: Chloe was not  
4       upstairs. Brian Albert slipped in testimony that  
5       he provided. Quote, "I was watching Chloe  
6       downstairs, monitoring her because of the other  
7       people in the house. She's not good with  
8       strangers." Remember that testimony.

9               So what happened next? We absolutely know  
10       that John was in the house. The data, Ryan,  
11       Heather, they all established that. We know that  
12       John ascended or descended stairs. We know that  
13       Brian Higgins and Brian Albert excused themselves.

14              How long does it take to have a cross word?  
15       How long does take to have a fight? How long would  
16       it take for Brian Higgins to say to John, you know,  
17       your girl has been texting me. A push. A punch.  
18       A fall. Pull Chloe off his arm and now it's done.  
19       What is that? Five seconds? Ten? It doesn't take  
20       long at all.

21              And then the panic sets in. It wasn't  
22       intended to go that far, but what's done is done.  
23       And then some very, very odd things start happening  
24       at the Albert household, very odd, indeed.

25              What do we need? We know through the

1 testimony and key swipes that Brian Higgins very  
2 oddly goes directly to Canton Police Department.  
3 Why would he do that? After a night of drinking  
4 and partying, why go to C.P.D. when you're drunk?  
5 What was so important there? He couldn't get his  
6 own story straight.

7 First he said it was administrative work.  
8 Then he said he was moving cars. Then he said it  
9 was a factor of both. Is it both? Was it neither?  
10 Or was he there to gather intel? Ask yourself.  
11 Why go? But the odd things keep piling up, and  
12 here is another.

13 Chloe was the Albert family pet. Not only did  
14 she appear to be gone from the house that morning  
15 of January 29th, nobody saw her there. Even  
16 Jim McCabe admitted, yeah, I didn't see her there.  
17 But they actually got rid of the dog altogether.  
18 Within months of this incident, the dog was gone,  
19 out of the house, rehomed, never to be seen again.  
20 This is a dog they had for seven years, also a dog  
21 who had a bite history. Why was it so important to  
22 get rid of that dog? Was there something about the  
23 dog they did not want law enforcement to find out  
24 about?

25 Recall what Dr. Russell said. She's seen up



1 to 1,000 animal attacks. In her expert opinion,  
2 John's right arm, those injuries are from an  
3 animal, quote, "most likely a large dog." And  
4 Dr. Russell's testimony, I'll remind you, was  
5 undisputed by any witness for the Commonwealth.

6 But there are more odd and unexplained things.  
7 After a night of drinking and hanging out and  
8 partying, after being together for the entire day,  
9 at 2:22 a.m., Brian Albert decides to call Brian  
10 Higgins. That call was missed, but 17 seconds  
11 later, Higgins calls Brian back, and they speak for  
12 22 seconds.

13 Now, that call is odd and suspicious enough,  
14 just in and of itself, the fact that the call was  
15 made. But what's even more incriminating is that  
16 both men, both of them, lied about the calls  
17 happening. They both claim astonishingly that  
18 those calls are, and you can probably say it with  
19 me, they're butt-dials. Amazing.

20 But Albert and Higgins take it a step further.  
21 Not only did they claim that they were making calls  
22 as butt dials but they were answering calls as  
23 butt-dials. And Higgins seemed awfully defensive  
24 about that call, didn't he? Remember on cross-  
25 examination when I was asking him, can you have a

1 conversation in 22 seconds? He unequivocally said,  
2 no, that's impossible. It's not reasonable. You  
3 can't do it. Well, let's test that out.

4 (As read), "Hey, did you make it over to  
5 Canton?

6 "Yup. Haven't been any calls. Nobody knows a  
7 thing.

8 "All right. Don't talk to anybody until we  
9 talk again.

10 "Okay. Fine.

11 "And, by the way, come back over. I need help  
12 moving something heavy."

13 How long did that take? Fifteen seconds  
14 maybe? But the odd behavior isn't done yet. Five  
15 minutes after that call that we just talked about,  
16 Jennifer McCabe in on her phone at her house,  
17 Google searching how long it takes for someone to  
18 die in the cold. That was at 2:27 a.m. That  
19 timeline seems to fit, doesn't it? And it fits a  
20 very telling and a very clear story. That search  
21 became a focal point of the Commonwealth's entire  
22 case.

23 This case was starting to look a lot more like  
24 the defensive Jennifer McCabe than anything else.  
25 And that's probably because there is no innocent

1 explanation for that Google search at 2:27 a.m.,  
2 none.

3 At the end of the day, clearing away all of  
4 the confusion of the Commonwealth's experts, we are  
5 left with two things that are true: First, neither  
6 of their experts could absolutely rule out that  
7 Jennifer McCabe made that search at 2:27 a.m.,  
8 neither.

9 And, second, the only person to use the actual  
10 phone model, the actual data and the actual precise  
11 operating system, was Rick Green, and he was clear.  
12 That search was at or before 2:27 a.m., and then it  
13 was deleted.

14 So what else was going on at or around this  
15 same time when all this suspicious activity was  
16 happening at the Albert house and the McCabe house?  
17 Three minutes after that search and eight minutes  
18 after the Albert-Higgins 2:22 a.m. call, Brian  
19 Loughran drives down the street in his snowplow.  
20 And he told you there is no body laying on the lawn  
21 at 34 Fairview at 2:30 in the morning.

22 Importantly, he didn't just simply say he  
23 didn't see a body. He wasn't paying attention. He  
24 said there was no body there. He knows the  
25 property. He knows the owners. He's grown up with

1       these folks. He passes by all the time not once,  
2       not twice, three passes. There was nobody on that  
3       lawn, period, at 2:30 a.m.

4               And what other suspicious thing happened that  
5       night? By 3:30 a.m., someone moved a Ford Edge in  
6       front of the very area that would obstruct the view  
7       of where John's body would ultimately be  
8       discovered. Who is the only person in this case  
9       that you've heard about with a Ford Edge? Brian  
10      Albert.

11             Remember as you're thinking about this, the  
12      basement at 34 Fairview is serviced by a bulkhead.  
13      It's a quick and convenient door to the backyard,  
14      and that backyard is serviced by a side fence. And  
15      that side fence is easily accessible to the front  
16      yard at the side of the house. Which side of the  
17      house? The side where John's body was found. And,  
18      by 6:00 a.m., John's body was, in fact, now  
19      outside.

20             While this flurry of suspicious activity was  
21      going on with the Alberts and the McCabes, what's  
22      happening with Karen? All she knows at this point,  
23      think about it, at approximately 2:21, she dropped  
24      off John. He walked into 34 Fairview, and that's  
25      all she knows. She knows nothing else that was

1           going on.

2           So what was she left to think? She goes in to  
3           check or he goes in to check the party out but all  
4           of a sudden he's not coming back. He's not  
5           responding. Minutes start to pass. One minute  
6           turns into two. Two turns to 10. Where is he?  
7           Why isn't he responding?

8           She is sitting in the cold, the dark, freezing  
9           outside in the car. Naturally she's perturbed.  
10          Being perturbed turns into being peeved, and being  
11          peeved eventually turns into being pissed.

12          By 12:30, Karen is mad. She has left 34  
13          Fairview to make a point, but she's still texting  
14          and calling him. What could she reasonably be  
15          thinking at this point? What is going through her  
16          mind? 12:33 turns into 12:34. "I can't believe  
17          he'd do this to me." 12:34 turns into 12:35.  
18          Where is he? "Why aren't you answering, John?"  
19          12:35 turns to 12:36. "Jesus Christ. I'm calling  
20          and you're not answering. Where are you? Pick up  
21          the phone." But there is still no answer. There  
22          is still no response.

23          By 12:37, she is getting furious. She does  
24          not know that something has happened to John. She  
25          does not know that. So she leaves the first angry

1       voicemail. It illustrates frustration,  
2       aggravation, all the normal responses anybody might  
3       have, you and I might have. But little did she  
4       know.

5             The next open voicemail has Karen parking at  
6       John's garage after she gets home. You can hear  
7       her heels clicking across the garage floor. For  
8       all she knows, at this point John's just drunk.  
9       He's been partying. He's hanging out, just forgot  
10      about her, blowing her off.

11            But John is still not responding. And, as the  
12      minutes tick by, Karen becomes increasingly,  
13      increasingly upset. Those are the voicemails that  
14      you heard. How could he do this? Why is he  
15      ignoring me? Why is he ignoring the kids? Those  
16      are the thoughts bearing down on Karen Read as she  
17      sat in an empty house late at night by herself.

18            Ladies and gentlemen, she did not know what  
19      had happened to John. But, within the next  
20      voicemail, you quickly learn what she was thinking  
21      and what she was feeling.

22            Now it's 5:23 a.m. She's woken up. She's  
23      realized that he hasn't come home and he hasn't  
24      responded to a single text, not a single call, and  
25      anger quickly turns to panic and abject fear. She

1 is so distraught, she reaches out to him again.  
2 John, where the fuck are you, she says through  
3 tears and desperation. And, at 6:03, her question  
4 was answered and her worst fears were realized when  
5 she finds his body laying, dying in the cold in  
6 Brian Albert's front yard.

7 You heard her. You can feel the grief. You  
8 can feel the raw anguish. You can see it. You  
9 don't have to wonder the emotional journey that  
10 Karen traveled that night. You can see it in the  
11 video. You can hear it in the audio.

12 From the time he left her and walked into 34  
13 Fairview and she called, she reached out 53 times.  
14 She called him 53 times before finding his body.  
15 Think about that. The Commonwealth wants you to  
16 believe that she murdered this man and that after  
17 that murder she called him not once, not twice, 53  
18 times. It makes no sense. What does make sense is  
19 that she emotionally moved from anger, then to  
20 panic, then to grief.

21 So back at 5:07 when she began her search,  
22 looking for John, she backed out of the garage.  
23 And what would happen next would change the entire  
24 course of this case. As she backed out of that  
25 garage, she hit John's Traverse and cracked her

1 right rear taillight

2 Folks, the Commonwealth has one job to do in  
3 this courtroom. It's an immutable responsibility  
4 to provide you with the truth. That's it, not to  
5 win the case but to seek justice and to do it  
6 through the truth.

7 Ask yourself, did you get that truth from the  
8 Commonwealth? The Commonwealth continually tried  
9 to tell you that that video showed that the SUV  
10 came close to John's Traverse and it took us  
11 showing you the video to unequivocally establish  
12 that Karen hit that car and cracked her taillight  
13 at 5:07. You can almost hear an audible gasp in  
14 the courtroom when we finally showed you the actual  
15 video. You can see that tire move.

16 I am only going to show you one series of  
17 exhibits during my entire closing, but it's that  
18 important. And it's this. Look at the condition  
19 of her taillight when she pulls out of the driveway  
20 at 5:07. That taillight, and let me choose my  
21 words very carefully here, that taillight is  
22 cracked but it's not completely damaged. And, if  
23 there was any question in your mind about the level  
24 of damage to that taillight at 5:07, all doubt was  
25 extinguished when Dighton Police Officer Barros



1 walked into this courtroom.

2 He's a sworn officer. He's not associated  
3 with Canton. He's not associated with Canton.  
4 He's not associated with the Alberts. He's not  
5 associated with the McCabes. He doesn't know  
6 Michael Proctor. In other words, he doesn't answer  
7 to any of these folks. He's an outsider and he's  
8 complete independent. And his words were the  
9 following: Quote, "That taillight was not  
10 completely damaged. It was cracked. A piece was  
11 missing but not completely damaged."

12 Take a look at this photograph and tell me  
13 which one looks like Officer Barros' description,  
14 the one on the left or the one on the right? The  
15 reconstructed light on the left is what that light  
16 looked like before it was in Trooper Proctor's  
17 possession. Remember that. That's what it looked  
18 like before Trooper Proctor had access to the SUV.  
19 And you have an independent police officer telling  
20 you so.

21 You'll recall that after John's body was  
22 discovered, Lank, a very good friend of the  
23 Alberts, walked into Brian Albert's house and had  
24 an off-the-record meeting with him. No one is ever  
25 going to know exactly what that meeting was about,

1        what they discussed, because that interview, like  
2        everything else in this case, it wasn't recorded.  
3        It wasn't memorialized.

4                But we do know that shortly thereafter, the  
5        Canton Police Department was recused from the  
6        matter entirely and the case was assigned to one  
7        Michael Proctor. You have to believe that when the  
8        Alberts found that out, they thought they hit the  
9        lottery. What are the chances? The department  
10       where my brother works, that would have been great  
11       to investigate this case but that department has  
12       been recused. That's tough luck. But the guy who  
13       catches the case is Michael Proctor, a guy we go  
14       back with for decades.

15               That's such a break, they probably thought,  
16       when this is over, we need to get that dude a gift.  
17       Oh, wait a minute. They didn't think that. They  
18       said it out loud. But, still, you've got to  
19       imagine that the Alberts had to be stressed what  
20       with that whole thing about a dead body on their  
21       lawn. That might get some attention.

22               And they had to be wondering, will he set up a  
23       crime scene? Is he going to come into the house?  
24       Is he going to search the house? Is he going to  
25       send in a forensics team? Is he going to interview

1 witnesses? Is he going to take us to the station?  
2 Will he take our phones? Will he look at our  
3 communications? Will he look at our Google  
4 searches? Will he look at our early morning phone  
5 calls? Is he going to look in the basement?

6 And Michael Proctor answered every single one  
7 of those questions resoundingly. Nope. He's a  
8 Boston cop too. And, with that, Michael Proctor  
9 didn't draw a thin blue line. He erected a tall  
10 blue wall, a wall that you can't scale, a wall that  
11 Karen Read certainly couldn't get over, a wall  
12 between us and them, a place you folks are not  
13 invited. We protect our own. It's us or it's  
14 then.

15 And, by the way, who is she, after all?  
16 Nobody. An outsider. This is going to be easy, or  
17 so they thought.

18 Let's look at what Michael Proctor actually  
19 did and did not do in this case. One of the  
20 consistent issues that's come up throughout this  
21 trial is how evidence always seems to be changing  
22 and evolving when in Michael Proctor's hands or  
23 somebody in his orbit.

24 If it happens once, let's chalk it up to a  
25 mistake. Twice, it's starting to look a little bit

1       like incompetence. If that happens every single  
2       time, it becomes intentional, which means it  
3       becomes corruption.

4               The defense spent some time, we spent some  
5       time, discussing the tow time that Michael Proctor  
6       swore to in affidavits. There's a reason why we  
7       believed it was so important, and I want to talk  
8       about that for just a quick second.

9               Because this was a concerted effort by  
10       Michael Proctor to falsify the time the car was  
11       seized so that no one would know that he actually  
12       had possession of the car before the first pieces  
13       of taillight were ever discovered at the scene, but  
14       he got caught. And, when he did, the best he could  
15       come up with was it was a typo, like a dozen times  
16       a typo.

17              You'll remember what that testimony was. The  
18       truth is that car was in Michael Proctor's  
19       possession from about 4:12 in the afternoon. He  
20       said it was 4:16 when he finally had to tell the  
21       truth or some version of the truth. Those first  
22       pieces of taillight were not found until after 5:45  
23       p.m. That is the very fact that Michael Proctor  
24       was trying to hide by those falsified affidavits,  
25       saying he didn't seize the car until 5:30.

1           But that wasn't Michael Proctor's only  
2           manipulation of the investigation. What about  
3           Brian Loughran? You met him. Michael Proctor did  
4           his level best to not just hide evidence but to  
5           hide human beings from you and from us.

6           Michael Proctor was informed that the plow  
7           drivers were out that night. There would be a  
8           witness potentially along 34 Fairview at the exact  
9           times in question. Even Michael Trotta expressly  
10          told Michael Proctor that 34 Fairview had, in fact,  
11          been plowed that morning and by whom.

12          Proctor not only did not interview Brian  
13          Loughran, he never disclosed his name in a single  
14          report. He hid him. This is a witness who was  
15          literally on 34 Fairview at the time in question  
16          where a body was found on the lawn. Wouldn't  
17          you want to get the truth from an eyewitness?  
18          Wouldn't you want to seek that out? Not if you're  
19          Michael Proctor, a close friend of the Alberts. If  
20          it were up to Proctor, you literally never would  
21          have heard of or from Brian Loughran. That's a  
22          scary prospect.

23          I want to touch briefly on the additional  
24          physical evidence or some additional physical  
25          evidence presented by the Commonwealth in this

1 case. You'll recall Christina Hanley. She  
2 established to a scientific certainty that the  
3 glass on the bumper which was told to you in  
4 opening statement was going to have something to do  
5 with this case. The glass on the bumper was going  
6 to match that cocktail glass.

7 She told you unequivocally the glass on the  
8 bumper did not match the cocktail glass. They came  
9 from two different sources. The glass on the  
10 bumper has nothing to do with the cocktail glass.  
11 So that glass on the bumper had to get there  
12 somehow. It didn't get there by being broken from  
13 the cocktail glass. See the point? It had to get  
14 on the bumper somehow. It didn't jump up there by  
15 itself.

16 And what's really interesting is that there  
17 was one piece on the bumper, one, only one, that  
18 matched something else in the case. It was a  
19 perfect match to a piece of glass that was  
20 supposedly found at the scene. Who do you think  
21 had possession of that matching glass? Michael  
22 Proctor. So the glass on the bumper had to be  
23 placed there and the only person who had anything  
24 close to matching the pieces that had to be placed  
25 there is Michael Proctor. You do the math.

1           That leads us to the magic hair. The  
2           Commonwealth spent a lot of time bringing in  
3           experts about mitochondrial DNA and maternal DNA  
4           lines and comparative analyses. And all that  
5           sounds really great and really great and really  
6           sciency except for the fact that it just doesn't  
7           matter. Why? Because you would have to believe  
8           that that little hair, tiny, tiny little hair,  
9           barely perched on the side of that SUV survived  
10          nearly 75 miles of a raging blizzard outside. That  
11          would be a magic hair, indeed.

12          That magic hair means nothing. The DNA means  
13          nothing. And that's because the hair was from  
14          somewhere else. It certainly was not from a motor  
15          vehicle incident at 34 Fairview on January 29th.  
16          That hair was placed there.

17          The DNA on the outside of the taillight  
18          housing also merits very little discussion. John's  
19          DNA would be expected to be found all over that  
20          SUV, inside, outside, the exterior, the interior.  
21          Everything he would have touched would have had  
22          his DNA on it.

23          Here is what the actual -- here's what's  
24          actually important about that DNA: No DNA was  
25          found on the interior of that taillight, the

1       taillight that they now claim crashed into his arm  
2       and shattered. No blood was found anywhere on that  
3       taillight or any taillight pieces, and no tissue  
4       was found anywhere on that taillight or any  
5       taillight pieces. But we are to believe that that  
6       taillight literally exploded on John's arm at 25  
7       miles an hour with 1,000 pounds of pressure.

8               We talked about the evidence doing very funny  
9       things when in Proctor's possession or the  
10      possession of somebody in his orbit. Now think  
11      about the videos that you saw.

12             How many videos appear to be somehow  
13      manipulated or altered? Just about every single  
14      one of them. Look at the video of the sally port.  
15      Let's take that one, for example, that grainy one.  
16      It's missing the exact time that would show the  
17      condition of the taillight when it was pulled into  
18      the sally port.

19             A pretty important time, wouldn't you think?  
20      Did someone not want you to see what the condition  
21      of the taillight was at that exact time? But the  
22      good news is there is a second video. It's much  
23      clearer, and it's from the same time frame. We  
24      didn't get that one for about two and a half years  
25      into the investigation. Literally, it was after



1 the trial started that that one was turned over.

2 And this is important. The Commonwealth  
3 introduced you to a person by the name of  
4 Yuri Bukhenik. They presented videos showing what  
5 was clearly the right side of the car. They asked  
6 questions about the right side of the car. You'll  
7 recall Mr. Lally asked Sergeant Bukhenik, did you  
8 or Trooper Proctor ever go to, at or near the right  
9 side of that taillight?

10 And, while he was asking the question, what  
11 appeared to be the right side of the car was  
12 looking at you. The video was still up. Bukhenik  
13 paused, turned earnestly into the microphone,  
14 stared at you and said, never. We never went  
15 anywhere around that taillight, while he was  
16 showing you the right side of the car.

17 And that trick might have worked until we got  
18 up to cross-examine him. And only then, on the  
19 second day of his testimony, did he have to admit  
20 that the video was actually inverted. It was  
21 backward. And it was cleverly inverted, at that.

22 The timestamp had the proper orientation,  
23 which means that timestamp had to be removed, the  
24 video inverted and the timestamp placed back on it,  
25 which means that was done intentionally. That was

1 not a mistake. And, when caught in that obvious  
2 fabrication, Bukhenik doubled down and said, it's  
3 exactly the same. You remember that back and  
4 forth. It's exactly the same, he said, as if we  
5 are stupid. Is it exactly the same or is it  
6 exactly opposite?

7 Ladies and gentlemen, you were lied to. There  
8 is no other way to say it. It's inexcusable. It's  
9 abhorrent. But it's also a paradigm of everything  
10 the investigators have been willing to do in this  
11 case: lie, obfuscate, manipulate, alter. And, when  
12 they are caught, they just excuse it away. It  
13 doesn't matter. It's the same thing. What's the  
14 big deal? Just look the other way. And, don't  
15 forget, Bukhenik is Proctor's supervisor, and he  
16 was in that little group chat where Karen Read's  
17 naked photos were being searched for. You know the  
18 saying about the apple falling from the tree.

19 Ladies and gentlemen, we haven't even started  
20 talking about the taillight yet. You'll recall  
21 that at the very beginning of this case, you were  
22 introduced to no fewer than five C.P.D. officers  
23 very early on who searched the scene. None of  
24 them, not a single one, found any taillight  
25 material at the scene. Zero.

1           Steven Saraf, Sean Goode, Stephen Mullaney,  
2           Michael Lank, Paul Gallagher, they were all there.  
3           They were walking right around there. They were  
4           all looking. They were searching with their eyes.  
5           They were searching with their hands. Some said  
6           they were searching with their feet. They even  
7           used tools, a leaf blower.

8           Not one piece of bright red taillight material  
9           was at the scene, not a single piece. But,  
10          incredibly, over the course of the next three  
11          weeks, according to Michael Proctor, 47 pieces of  
12          taillight material would end up being found, some  
13          of which were the size of a salad plate.

14          The SERT team shows up later on January 29th;  
15          and, according to O'Hara, the first few pieces of  
16          taillight were found about 5:45. And here is some  
17          interesting testimony you heard: Who else was  
18          there? Who did O'Hara say was there? Well, he  
19          said his team was there. We certainly expected  
20          that. But then he said there were others, these  
21          other mysterious figures, some from Canton P.D.,  
22          some from the Massachusetts State Police that he  
23          could not account for.

24          Heavy coats, big masks, hats. Even Lieutenant  
25          O'Hara could not tell who was who, but he did note

1 Canton police officers were there who were  
2 unaccounted for. Massachusetts state troopers were  
3 there. And, during that search that was overseen  
4 by Trooper Tully, Proctor's supervisor, three  
5 pieces of taillight material were found. That's  
6 super important, and I want to concentrate on that  
7 for a second.

8 O'Hara said all three pieces were in an area  
9 about 12 inches, 12 inches square. That's an area  
10 about as big as your dinner plate. Tully, however,  
11 claimed that one red piece was found. About three  
12 feet away from that was a shoe. About one and a  
13 half -- sorry -- one to two feet from that was a  
14 clear piece of plastic. And a few feet away from  
15 that was a red piece of plastic. So we have red,  
16 clear and red over the span of about, if you add it  
17 up, probably 10 or 12 feet.

18 Ladies and gentlemen, both of those things  
19 cannot be true. Somebody is taking liberties with  
20 the facts.

21 Then Lieutenant Tully comes to court and makes  
22 this big grand gesture of opening all these  
23 evidence bags. These two evidence bags in  
24 particular represent exactly what we are talking  
25 about, those three pieces, red, clear, red. They

1 are marked. They are sealed. They look official.  
2 They are not Stop & Shop bags. Thank God. At  
3 least they've moved up from that. They've even got  
4 evidence tape on them. Who knew? There's evidence  
5 tape around here. So this must be real evidence,  
6 right? It must be real evidence in this case.

7 And, after making that big theatrical display,  
8 he opens up the bag with the red pieces, and he  
9 pulls two pieces out. That's okay. Put the two  
10 red pieces together. Good so far. Then he opens  
11 up the second bag under Mr. Lally's questioning.  
12 And do you remember he hesitated just a second? He  
13 opened that bag and pulled out one piece of clear  
14 plastic, then pulled out a second piece of clear  
15 plastic with no explanation as to how that could  
16 have possibly happened. And he quickly returned  
17 all four of those back into the bag, sealed them up  
18 and we are done for the day.

19 The next day, I asked about that evidence  
20 again. I asked him to open up that bag with the  
21 red pieces, and he did the same thing. He pulled  
22 out two red pieces of plastic. And I said --  
23 you'll recall this. I said, look deeper. Look  
24 closer, sir. Pull everything out of that bag.  
25 Would he have had I not suggested it? And then he

1 pulled a third piece of red plastic out of the bag.  
2 So miraculously, Trooper Tully's three pieces of  
3 plastic became five pieces of plastic right before  
4 your eyes.

5 Ladies and gentlemen, the forces at play that  
6 multiplied those pieces of plastic inside those  
7 evidence bags are the same forces at play that  
8 multiplied the pieces of plastic at 34 Fairview.  
9 Think about that. Let that sink in for a second.  
10 How easy is it? That's not sloppiness. That's  
11 evidence manipulation. That's how over the course  
12 of three weeks those pieces of plastic go from zero  
13 to three to five to 47, ever increasing in size  
14 with every single search.

15 Now, knowing all that, ask yourself the  
16 looming question, who had access to that taillight,  
17 the cracked taillight? Who was it? Go back and  
18 watch the sally port video. I'll give you the  
19 timestamp. 5:37. See it for yourself. We know  
20 that Trooper Proctor, with binder in hand, walked  
21 by himself once we corrected the video from being  
22 inverted. You can see that he walked back by  
23 himself to the right rear taillight where nobody  
24 could see what he was doing.

25 Higgins' own key swipes put him in the sally

1 port that same afternoon and evening. And then the  
2 sally port video magically skips and Chief  
3 Berkowitz appears right next to Proctor at the back  
4 of that vehicle in the same spot, and they walk out  
5 of the sally port together.

6 Where were they going? Remember O'Hara.  
7 Unidentified troopers and Canton cops were at the  
8 SERT search at 34 Fairview. How hard is it to drop  
9 a piece of plastic?

10 We spent a long time talking about the  
11 compromised and altered and tampered and  
12 manipulated evidence. Now I want to switch and  
13 talk a little bit about the true facts in this  
14 case, because you did hear some true evidence and  
15 true facts.

16 The Commonwealth presented about 67, maybe  
17 more, witnesses and expended 30-plus days of trial  
18 and nine weeks of your life. Maybe we are in the  
19 tenth week. For what? It should be relatively  
20 simple, right?

21 The Commonwealth claims that Karen Read pulled  
22 up to 34 Fairview. John got out of the car. She  
23 reversed into him and hit him and then she drove  
24 home. That's four facts. It's just four facts.  
25 That's all it is.

1           What evidence do they actually have to prove  
2           that that SUV ever hit John? The answer is "none."  
3           They don't have any -- there is no evidence  
4           whatsoever that Karen Read's vehicle ever struck  
5           John O'Keefe or that Karen Read ever wanted to  
6           strike John O'Keefe. In fact, every single piece  
7           of material evidence in this case unequivocally  
8           proves the opposite.

9           John went into that house. That SUV was not  
10          damaged by hitting John and John's injuries did not  
11          come from being hit by a car. That's what the  
12          evidence actually shows. The Commonwealth knows  
13          that and they've known it for a long time and  
14          Proctor knows that. And, because of that, the  
15          Commonwealth just resorts to character  
16          assassination and talking for weeks on end about  
17          the snow.

18          Let's talk about what the real evidence  
19          actually shows, the unassailable science. Let's  
20          talk about the truth.

21          Concerning John's injuries first, the  
22          Commonwealth's own medical examiner, Dr. Scordi-  
23          Bello, could not conclude that John was hit by a  
24          car. Think about that. And she would not even say  
25          that it was a homicide. She told you without any



1       dispute in this case, quote, as read, "Evidence  
2       pointing toward one manner of death is no more  
3       compelling than evidence of a competing manner of  
4       death," end quote. Her words, not mine.

5               She went on to say it's just as likely that he  
6       was punched and fell backward. His injuries are  
7       consistent with that. In fact, in her expert  
8       opinion, his injuries are consistent with a  
9       physical altercation, as she testified, but they  
10      are not, in her words, not classical injuries from  
11      an auto/pedestrian accident. That, by itself, is  
12      reasonable doubt.

13              But the evidence and the truth goes far  
14      further. We introduced you to not one but two  
15      thoroughly credentialed medical examiners or  
16      medical experts, Dr. Sheridan and Dr. Russell, both  
17      of whom said John's arm injury is consistent with  
18      an animal attack.

19              Dr. Russell studied, diagnosed and treated up  
20      to 1,000 animal wounds. She is an expert in animal  
21      wounds, and she was unequivocal. Those wounds are  
22      from an animal, likely a large dog, which means  
23      that John was attacked inside the home where Chloe  
24      was. There is no other possibility. And Dr.  
25      Sheridan, for his part, with thousands, 13,000

1 autopsies under his belt, decades of experience as  
2 the chief medical examiner who's triple-  
3 credentialed in anatomical, forensic and  
4 neuropathology, he told you that John's injuries  
5 are inconsistent with a motor vehicle accident or  
6 incident. They are consistent, however, with a  
7 physical altercation; in layman's terms, the  
8 science proves John was beaten. That also is  
9 reasonable doubt and should end this case.

10 But the facts and evidence don't stop there.  
11 Two of the most highly educated and highly  
12 qualified engineers you'll ever meet, Dr. Dan Wolfe  
13 and Dr. Andrew Rentschler, a mechanical engineer  
14 and a biomechanist, they reviewed this case. They  
15 did testing. They did analysis. They evaluated  
16 the case scientifically. They were not hired by  
17 the defense, not by the Commonwealth. They are  
18 completely 100 percent independent of any party in  
19 this case, and they were equally available, by the  
20 way, to the Commonwealth. They could have called  
21 them.

22 They explained that John's injuries were not  
23 caused by being hit by Ms. Read's SUV and that the  
24 SUV was not damaged by coming in contact with  
25 John O'Keefe's body. That should end the inquiry

1 right there. Both sides of the equation. From a  
2 physics, engineering and biomechanical standpoint,  
3 they established that John O'Keefe was not struck  
4 by Karen Read's vehicle, period. And that is yet  
5 another fact that establishes reasonable doubt and  
6 should put an end of this case.

7 So instead of calling the ARCCA experts which  
8 they had available to them, the Commonwealth chose  
9 to introduce you to Trooper Joe Paul. You'll  
10 remember his testimony. I think I'm being kind  
11 when I say that Trooper Paul's analysis lacked  
12 credibility.

13 Trooper Paul lacks the experience, the  
14 education, the training, the background and the  
15 knowledge to not only render opinions on these  
16 issues but to even understand the issues himself.  
17 He makes the absurd claim that John was hit on the  
18 elbow area of his arm by a taillight. He was spun  
19 to the left in a pirouette. His arm stayed on the  
20 light long enough for the shards of plastic to  
21 explode around him, scratching his arm, even though  
22 he was wearing long sleeves, then projecting him 30  
23 feet to the left but not before making a stop to  
24 hit his head on either the curb or the pavement  
25 before coming to his final resting place with his

1           unbroken phone tucked neatly under his body.

2           It's nonsensical. It borders on laughable.  
3           Compare that testimony to Dr. Dan Wolfe and Dr.  
4           Andrew Rentschler, both Ph.D.s in engineering, both  
5           top of their field in accident reconstruction, both  
6           published peer-review articles on the issues. Both  
7           men are highly sought after by the likes of  
8           national sports leagues and the United States  
9           Department of Defense, and these men are unrivaled  
10          in accident reconstruction.

11          What did Dr. Rentschler say before he left the  
12          stand? This is even under cross-examination. He  
13          said that the physics and the science don't lie.  
14          His words were, you can't deny the science and the  
15          physics. John wasn't hit by that car, period. The  
16          Commonwealth cannot explain John O'Keefe's  
17          injuries. They can't explain his head wound. How  
18          did he get the head wound if he landed on snow-  
19          covered grass and dirt?

20          And, by the way, before Mr. Lally gets up and  
21          says it, because I know he's going to, there is  
22          zero evidence before you, zero, that cold grass and  
23          dirt turns into ice or turns into concrete. Zero.  
24          They can't explain the injury above his right eye,  
25          that laceration. They can't explain his nose.

1 They haven't even tried to. They can't explain the  
2 injury to his tongue, the laceration on his tongue.  
3 They cannot explain the injuries to the back of his  
4 hands, the bruises. And certainly they cannot  
5 explain the injuries to his right arm. But, maybe  
6 most importantly, they cannot and haven't even  
7 tried to explain the lack of injuries on John's  
8 body from the neck down. Nothing. He was  
9 pristine. Not a bump, not a bruise, not a  
10 fracture, not a broken bone, nothing to suggest  
11 that he was hit by a 7,000 pound SUV going 25 miles  
12 per hour.

13 And what of that right arm? According to the  
14 Commonwealth's best and brightest, Trooper Paul,  
15 John absorbed the entirety of the collision, the  
16 whole collision, with that three-and-a-half-ton SUV  
17 entirely with his right arm, launching him some 30  
18 feet. But, amazingly, the arm suffered no break,  
19 no fracture and didn't even get a bruise.

20 So how are those injuries properly explained?  
21 The evidence is simple. John got into an  
22 altercation. He was punched. He tried to defend  
23 himself by putting his hands up. He may have even  
24 scratched his own nose by putting his hands in  
25 front of his face to defend himself. His hands

1           were bruised in the covering up.

2           THE COURT: Counsel, five minutes.

3           MR. JACKSON: Thank you, Your Honor.

4           But, as he continued, he got hit. A punch  
5           went through, and he fell to the ground, fracturing  
6           his skull. At some point during that altercation,  
7           the dog got a hold of him and the dog was pulled  
8           away. Every single injury is answered. Every  
9           single injury is explained by that.

10          Ladies and gentlemen, given what we know about  
11          the facts and the physical evidence in this case,  
12          the actual truth in this case, how did this happen,  
13          how did we end up here? We ended up here because  
14          of relationships, insider trading, playing the who-  
15          you-know game, and building a tall blue wall which  
16          takes decades and generations. But the real  
17          question is, is it going to continue? Will this  
18          festering malignancy that allows a lead detective  
19          and his supervisor to gloat and sneer while looking  
20          over naked pictures or looking for naked pictures  
21          of the woman that they've targeted, will that  
22          continue? And the answer should be not if you have  
23          anything to say about it.

24          Michael Proctor is the lead investigator in  
25          this case. And, much as the Commonwealth might

1 try, they cannot, they cannot distance themselves  
2 from the stench of him on this case and this  
3 investigation. Those secret group chats illustrate  
4 the quality and character of his investigation.  
5 Remind yourself how, quote, "an unbiased and an  
6 objective investigator," someone who is supposed to  
7 be looking for facts, ask yourself how did he  
8 approach his job late at night, sitting there in  
9 his office, deviously looking for naked pictures of  
10 Karen Read and talking about her like she is a  
11 piece of meat, talking about her bodily functions,  
12 her medical conditions, calling her vile names.

13 I don't even have it in me to repeat what he  
14 said about her. He reduced her to an object, and  
15 he went further by insulting her. He went further  
16 than insulting her, and he dehumanized her. And,  
17 when he was done betraying that very humanity, he  
18 wished her to commit suicide.

19 That, ladies and gentlemen, is how you frame  
20 someone. That's how you dehumanize someone so  
21 viciously that you can just pin it on the girl and  
22 cover for the homeowner because he is a Boston cop.  
23 That's how you rip a person's life apart and sleep  
24 like a baby while doing it and then further that by  
25 saying, I hope she kills herself.

1           Ladies and gentlemen, I just began the  
2           discussion this afternoon or this morning with a  
3           quote about the truth, and I did not because that's  
4           what this case is about, top to the bottom, tip to  
5           tail. It's about the truth, not hiding it or  
6           concealing it but exposing the truth.

7           The truth is immutable. It's not a feeling.  
8           It's not a whim. It's unflinching. It's  
9           unchanging and it's everlasting. That's why the  
10          law is steady. That's why it's not captive to the  
11          whims of people drunk with power who think they are  
12          above the law, who think they are above scrutiny.  
13          That's why you stand as the guardian of justice and  
14          the protector of justice.

15          The law demands the very integrity that  
16          Trooper Proctor and his investigation lacks, and it  
17          requires that you cannot convict Karen Read unless  
18          the Commonwealth has met its incredibly high burden  
19          to prove every element beyond a reasonable doubt  
20          and to a moral certainty. And a moral certainty is  
21          defined as the highest degree of certainty possible  
22          in matters related to human affairs. It's the  
23          highest degree possible in your life. That's the  
24          level of certainty.

25          And I'll leave you with this: You have the



1 most powerful tool known to American jurisprudence  
2 because you have your vote. No one can take that  
3 away from you, not me, not the Commonwealth, not  
4 the Court. You may not have asked to be here, but  
5 each of you have given something very special of  
6 yourselves. You've agreed to do that which is the  
7 highest calling a citizen can answer in any way.

8 You have agreed to give your community your  
9 best. And my question to you is what will you do  
10 with this moment? Ignore the lies and the  
11 manipulations, the misogyny, the bias, the lack of  
12 evidence? Could you ever do that? Would you ever  
13 do that, or will you say with your verdict, I see  
14 the truth and I will not ever look the other way?

15 When you stare the truth down, you'll see that  
16 the Commonwealth has not proven its case beyond a  
17 reasonable doubt and to a moral certainty, not even  
18 close. Ladies and gentlemen, Karen Read is  
19 innocent. Do justice and find her not guilty.  
20 Thank you.

21 THE COURT: Thank you very much, Mr. Jackson.

22 All right. Mr. Lally?

23 **CLOSING ARGUMENT ON BEHALF OF THE COMMONWEALTH**

24 MR. LALLY: Thank you, Your Honor.

25 "I hit him. I hit him. I hit him. I hit

1 him." Those are the words of the defendant four  
2 times. You heard testimony from four different  
3 witnesses who overheard and observed those  
4 statements from the defendant on January 29th,  
5 2022.

6 You heard testimony from Firefighter Timothy  
7 Nuttal. He was trying to bag-valve mask  
8 Mr. O'Keefe. He was working on resuscitative  
9 efforts to try to save Mr. O'Keefe's life. He  
10 asked if anyone saw anything or knew what happened.  
11 And the defendant said, "I hit him. I hit him. I  
12 hit him. I hit him."

13 Firefighter Anthony Flematti was asking if  
14 anyone had information on why Mr. O'Keefe was there  
15 in the snow. And the defendant repeatedly said, "I  
16 hit him. I hit him. Oh, my God. I hit him."

17 Firefighter Katie McLaughlin was tasked by  
18 Firefighter Flematti with asking for biographical  
19 information and for what the cause was of the  
20 traumatic injuries that all the firefighters  
21 testified that they observed on Mr. O'Keefe. She  
22 asked the defendant. And the defendant said, "I  
23 hit him," repeatedly. Firefighter McLaughlin asked  
24 for clarification. You did what? And the  
25 defendant repeated, "I hit him."

1 Jennifer McCabe stated initially over the  
2 phone when speaking with the defendant that the  
3 defendant said, could I have hit him, in the car,  
4 while they're on the phone with Ms. Roberts, going  
5 to Ms. McCabe's house to Mr. O'Keefe's house.  
6 "Did I hit him? Could I have hit him?"

7 Once on scene, once asked, as Ms. McCabe  
8 described by an EMT, for name, age, things like  
9 that related to Mr. O'Keefe, what caused the  
10 trauma, she indicated in her testimony that the  
11 defendant said repeatedly, "I hit him."

12 You heard testimony from Officer Saraf  
13 statements that he attributed to the defendant as  
14 saying that morning, "This is all my fault. This  
15 is all my fault. I did this." This is what the  
16 defendant is saying on scene. Since then, the  
17 story has changed a little bit. But those were the  
18 words that came from the defendant's mouth on  
19 January 29th, 2022 as John O'Keefe lay dying on the  
20 front lawn of 34 Fairview Road, where the defendant  
21 had left him after striking him with her motor  
22 vehicle several hours before and then left him  
23 freezing there in a blizzard.

24 There's certain things that have come up over  
25 the course of this trial as far as evidence and

1 testimony are concerned, little things. And what I  
2 would suggest to you, it's those little things that  
3 are quite telling as it pertains to the defendant's  
4 statements and the defendant's actions over the  
5 course of January 28th, into January 29th and  
6 beyond. And I'm going to bring some of those to  
7 your attention as I go through, but I just ask you  
8 to keep that in mind as far as when you're  
9 deliberating, when you're reviewing this testimony  
10 and this evidence. The little things matter. The  
11 little things start piling up in this case.

12 Throughout the course of this trial, you've  
13 heard a lot of purported evidence or questions of  
14 witnesses in an attempt to distract you from the  
15 evidence in this case. It's essentially defense by  
16 obfuscation. It's a three-card monte. The facts  
17 and the evidence in this case are your card. They  
18 are the Queen of Hearts. And so what I want you or  
19 what the defense wants you to do is not look at  
20 that card. Look at anything else. Look at  
21 movement. Look at this person. Look at that  
22 person. Look at text messages. Look at this.  
23 Don't pay attention to the facts and the evidence  
24 because, if you do, what it will ineluctably lead  
25 you to is that the defendant is guilty of each of

1 the three indictments before this Court.

2 The evidence and the facts of this case are  
3 for your, the jury, to decide, using your common  
4 sense, using your life experiences as your guide  
5 through that as you go.

6 Before I turn to that evidence that I submit  
7 to you ineluctably demonstrates the defendant's  
8 guilt, let me first just address Trooper Proctor.

9 The text messages from Trooper Proctor are  
10 unprofessional. They are indefensible. They are  
11 inexcusable. However, as distasteful as those  
12 messages are and their content is, I submit they  
13 had no bearing whatsoever or impact whatsoever on  
14 the integrity of the entirety of the investigation  
15 that the Massachusetts State Police collectively  
16 conducted into John O'Keefe's death here.

17 As was asked of Trooper Proctor on cross-  
18 examination, these were texts from his personal  
19 phone that he never thought would see the light of  
20 day. He was asked whether or not he ever thought  
21 that he would be asked about these in a courtroom,  
22 put to him in sort of a safe space, a safe place  
23 for him to discuss, if you will.

24 What do you not see in those text messages?  
25 You don't see any discussion or any illusion of any

1 conspiracy, of any framing of the defendant, of any  
2 planting of any evidence, no evidence whatsoever.  
3 Why? Because it didn't happen. There is no  
4 conspiracy. There is no coverup. There is no  
5 evidence of any of that beyond speculation, rampant  
6 speculation and conjecture on behalf of the  
7 defense.

8 Two things can be true at the same time.  
9 They are mutually exclusive. The texts from  
10 Trooper Proctor are distasteful. They are  
11 disrespectful. They are unprofessional. There  
12 is no defense to them. And the defendant killed  
13 John O'Keefe.

14 Turning to the evidence, let me first talk a  
15 little bit about John O'Keefe. You heard a lot  
16 about him over the course of this trial, about his  
17 selfless story through his family and friends that  
18 loved him, including his adopted niece and nephew.  
19 You've heard a lot about the lives that he touched  
20 and the different people who he had friendships  
21 with. You've heard a lot from those particular  
22 friends and from his family.

23 Turning to what I would submit to you is a  
24 timeline, this may be a little hard to see up here.  
25 Where I'm going to go is from left to right.

1 January 28th, 2022, 9:49 in the morning. Karen and  
2 John begin fighting over text messages. 2:25 p.m.  
3 in the afternoon. The defendant texts Mr. O'Keefe,  
4 tell me if you are interested in someone else.  
5 Can't think of any other reason you've been like  
6 this. John texts back, nope. 2:25. Mr. O'Keefe  
7 texts the defendant, things haven't been great  
8 between us for a while. Ever consider that?

9 And this is also testimony that you heard  
10 through multiple sources, whether it be phones,  
11 whether it be from the children, whether it be from  
12 other friends or family members as to the  
13 relationship in the months and weeks leading up to  
14 John's murder.

15 2:23 p.m. John texts the defendant. Sick of  
16 always arguing and fighting. It's been weekly for  
17 several months now. He then texts the defendant,  
18 OMG. Stop calling.

19 This is during the time frame that Trooper  
20 Guarino was talking about with 18 phone calls, most  
21 of which were rejected, some of which were missed  
22 and a couple of which were answered over the course  
23 of this afternoon as she's continuing to needle and  
24 try to engage him in a fight that he doesn't want  
25 to have.

1           2:33 p.m. The defendant texts, John, so  
2           you're not into this anymore?

3           2:34 p.m. John texts the defendant, I am not  
4           answering. Stop calling. The defendant then texts  
5           John, then stop starting with me.

6           2:38 p.m. The defendant texts John, I'm going  
7           to grab a drink in a bit. At 2:38 in the  
8           afternoon.

9           Around 3:00 p.m. is the testimony you heard  
10          from Erin O'Keefe in regard to the defendant  
11          texting her, asking if she can go out without her  
12          husband, Paul, asking to go out for a drink. This  
13          is while Erin O'Keefe testified she was waiting for  
14          one of her children at the bus stop, picking that  
15          child up around 3:00 o'clock in the afternoon.  
16          This is also the point in which the defendant says  
17          to Ms. O'Keefe, wish I didn't speak to another  
18          O'Keefe after 2004.

19          7:30 p.m. You have Mr. O'Keefe and  
20          Mr. Camerano arriving at C.F. McCarthy's with the  
21          defendant arriving at 8:51.

22          8:58 p.m. is when the defendant receives drink  
23          number one at C.F. McCarthy's, vodka soda, tall  
24          cylinder glass, lime and a straw.

25          9:13 p.m. Drink number two.



1                   9:20 p.m.   Drink number three.

2                   9:33 p.m.   Drink number four.

3                   9:57 p.m.   Drink number five.

4                   10:22 p.m.   Drink number six.

5                   10:29 p.m.   Drink number seven.

6                   Seven drinks from 8:58 p.m. through 10:29  
7 p.m., when she receives that last drink at C.F.  
8 McCarthy's, the drink that she indicates to  
9 Sergeant Bukhenik and several others on the next  
10 day that she did not take with her from C.F.  
11 McCarthy's to the Waterfall, which several  
12 individuals at the Waterfall testify that she  
13 produced from her coat when she walked in and that  
14 you can clearly see on the C.F. McCarthy's video  
15 her walking out the door with the same tall  
16 cylinder glass in her right hand.

17                  Now, understanding that some of these drinks  
18 are not the full tall cylinder drinks, what she's  
19 doing is she's getting shot glasses of vodka and  
20 then pouring them into the drink after she's  
21 consumed the drink.

22                  10:54 p.m.   The defendant and Mr. O'Keefe  
23 arrive at the Waterfall, during the course of which  
24 about an hour that they're there, the defendant  
25 receives drinks number eight and drinks number

1 nine.

2 12:10 a.m. From the Waterfall video, you have  
3 Ms. McCabe, Ms. Kolokithas and the defendant  
4 departing the Waterfall together. Interestingly,  
5 around the same time, you also have the text and  
6 screenshot communications between Colin Albert and  
7 Allison McCabe in reference to him getting picked  
8 up at that time. You also have testimony from  
9 Brian Albert; Nicole Albert; Caitlin Albert; Brian  
10 Albert, Jr. in reference to them sort of walking in  
11 from the Waterfall as Colin Albert is walking out  
12 of 34 Fairview Road, gets picked up by Ms. McCabe,  
13 and then is driven home.

14 One minute later, 12:11, Mr. O'Keefe is then  
15 on the Waterfall video walking out with a cocktail  
16 glass in his right hand.

17 At 12:14 a.m., Mr. O'Keefe texts Ms. McCabe,  
18 where to?

19 At 12:14 a.m., based on the fact that she's  
20 driving and Matt McCabe indicated in his testimony  
21 that she should call him instead of texting while  
22 driving, Ms. McCabe calls John O'Keefe and speaks  
23 with him regarding directions, sort of going over  
24 which way to come in, Chapman Street, over  
25 Cedarcrest, as far as coming into Fairview Road.

1           At 12:15:38 a.m., the defendant's vehicle  
2 drives by the Canton Library. You can see that on  
3 the video.

4           At 12:17:56, the defendant drives by the  
5 Temple Beth Abraham video. Again, you can see that  
6 on the video. Remember also the testimony from  
7 Lieutenant Tully in regard to the CSLI data and the  
8 ranging data in reference to it coinciding with  
9 what you observed of the black SUV from each of  
10 those respective videos.

11           12:19:32. Mr. O'Keefe enters 34 Fairview Road  
12 into his Waze app on his phone.

13           12:23 a.m. is when the defendant conducts a  
14 three-point turn on Cedarcrest and travels back  
15 towards Fairview. That is from Mr. O'Keefe's GPS  
16 native location data from his phone.

17           Around the same time at 12:23 and 12:24 is  
18 when you have that testimony from Ryan Nagel,  
19 Heather Maxon and Ricky D'Antuono pulling into  
20 Fairview Road around the same time and pulling in  
21 behind the dark SUV.

22           12:25 a.m. is the last native location GPS  
23 data of John O'Keefe's phone. It's in that area  
24 between 32 and 34 Fairview Road, where his body is  
25 discovered the next time -- the next morning, and

1 which there is no movement of that phone from that  
2 12:25 a.m. period until Ms. Roberts then picks up  
3 the phone on the grass under Mr. O'Keefe's body  
4 sometime after 6:00 a.m.

5 What you have up on the screen right now is  
6 that data, those plotting points that Trooper  
7 Guarino was testifying about as far as the movement  
8 of the vehicle. The movement of the vehicle as it  
9 comes down Cedarcrest, passes by Fairview, reverses  
10 direction and then comes down Fairview, moving up,  
11 moving up, moving up, as the witnesses describe,  
12 eventually stopping in that area of the property  
13 line between 32 and 34 Fairview Road, which happens  
14 to coincide with the vehicle control history  
15 database information from the Toyota text that you  
16 now have up on the screen before you here,  
17 indicating that following that three-point turn,  
18 approximately eight minutes after that from  
19 Trooper Paul's testimony as far as the mileage, 35  
20 to 36 miles, matching up with the time that the  
21 vehicle is in front of 34 Fairview Road, that the  
22 vehicle travels in reverse in a straight line for  
23 24.2 miles per hour for 62 1/2 feet with a minor  
24 steering angle change which the trooper indicated  
25 was consistent with a pedestrian collision.

1           At 12:30 a.m., you have that second triggering  
2           event eight minutes after the three-point turn when  
3           the vehicle is in reverse at 24.2 miles an hour.

4           12:35 is when the defendant calls John and  
5           that's unanswered.

6           12:36 is around the time that the defendant's  
7           phone connects to the WiFi at One Meadows Ave.,  
8           Mr. O'Keefe's home.

9           12:37 is when the defendant leaves this  
10          voicemail.

11          (Whereupon, voicemail is played.)

12          MR. LALLY: So within minutes of that  
13          vehicle's data going 24.2 miles an hour in reverse  
14          for 62 1/2 feet, the defendant leaves that  
15          voicemail, seething in rage, as she's screaming,  
16          "John, I fucking hate you."

17          12:40 to 12:42. Ms. McCabe is texting  
18          Mr. O'Keefe. She tries calling Mr. O'Keefe, gets  
19          no answer.

20          If you recall from her testimony around this  
21          time frame, about 12:40, she was unsure whether the  
22          vehicle was actually still out front or if it had  
23          gone at that point. But she was looking for John  
24          because she had seen the defendant's vehicle in  
25          front of the house and no one had come in. So she

1 was wondering where her friend, Mr. O'Keefe, was.

2 12:55. The defendant texts John, See you  
3 later.

4 12:59. The defendant calls, leaves another  
5 voicemail for Mr. O'Keefe, Exhibit 637, and it  
6 sounded like this.

7 (Whereupon, voicemail is played.)

8 MR. LALLY: But somebody did know where  
9 Mr. O'Keefe was. The defendant knew exactly where  
10 he was. She had driven him there. She had struck  
11 him there. She had left him to die there.

12 1:02 a.m. The defendant leaves another  
13 voicemail with no content. And then she texts  
14 John, "Your kids are fucking alone."

15 1:09 a.m. The defendant texts John, "I'm back  
16 in Mansfield. The kids are home alone." She is  
17 not -- you know, GPS, you know, as far as the -- it  
18 never disconnects from the WiFi until the following  
19 morning. There is no indication that Ms. Read left  
20 and went to her home in Mansfield at any point in  
21 time.

22 1:10 a.m. The defendant calls her parents.

23 1:11 a.m. She calls Mr. O'Keefe and leaves  
24 this voicemail.

25 (Whereupon, the voicemail is played.)

1           1:18 a.m. The defendant leaves another  
2 voicemail.

3           Now, about 1:43 or 1:45 a.m. is when Julie  
4 Nagel testified that they were leaving the house,  
5 and she sees a large, black object on the lawn near  
6 the flagpole while leaving 34 Fairview Road,  
7 doesn't think much of it at the time, isn't  
8 expecting Mr. O'Keefe or any body to be out on the  
9 front lawn.

10           4:42 a.m. The defendant calls and speaks.  
11 The calls to her parents are finally answered.

12           4:49 a.m. The defendant calls Ms. Camerano,  
13 screaming, where's Mike?

14           4:53 in the morning is when the defendant  
15 instructs (c), Mr. O'Keefe's niece, to call  
16 Ms. McCabe. Why? Because the defendant doesn't  
17 have Ms. McCabe's phone number. Indicates that  
18 John didn't come home. We got in a fight and I  
19 left him at the Waterfall.

20           Those are the first statements or the first  
21 version of events that she is able to communicate  
22 out to the world as to what happened to Mr. O'Keefe  
23 and where he is. We got into a fight. I left him  
24 at the Waterfall.

25           5:00 a.m. The defendant calls Kerry Roberts,

1 saying, John's dead. Kerry, Kerry, Kerry, Kerry.  
2 Hangs up the phone.

3 5:01. The defendant calls Kerry Roberts  
4 again. And it's at this point that she indicates  
5 that John's dead. He must have been hit by a plow.

6 5:07 a.m. The defendant leaves One Meadows  
7 Ave. You have the video of that. It's No. 153 in  
8 Exhibit 6. We'll get to that a little more in a  
9 moment.

10 About 5:10 a.m., the defendant calls Kerry  
11 Roberts. Ms. Roberts starts calling hospitals,  
12 calling Canton P.D., calling 911, something that  
13 you would do if you didn't know where Mr. O'Keefe  
14 was for all of these hours that all of these other  
15 phone calls are being made and these text messages  
16 are being sent and calling your parents and all of  
17 these other things. No calls from 911 to the  
18 defendant while John O'Keefe is laying, freezing  
19 and dying from a brain injury and skull fracture on  
20 the front lawn of 34 Fairview Road.

21 5:11 a.m. The defendant's vehicle is seen on  
22 the Canton Library camera, heading towards the  
23 Waterfall. It seems to be sort of retracing the  
24 steps.

25 5:18 a.m. The defendant's vehicle was seen at



1 Washington Street in Chapman on the Temple Beth  
2 Abraham video, heading in the same direction that  
3 it was the night before when it was heading toward  
4 34 Fairview Road.

5 5:35 is when the defendant arrives at  
6 Ms. McCabe's house. Ms. Roberts arrives shortly  
7 thereafter. Both of them see the broken taillight  
8 at that time in the driveway.

9 Now, that gap of 5:18 to 5:35 is way too much  
10 time to be driving from the area of the Waterfall  
11 to Jennifer McCabe's house. And, as I indicated a  
12 moment before, heading in the same direction, the  
13 same directionality, retracing the steps from the  
14 night before, heading towards 34 Fairview Road.

15 Why is it that the defendant can see  
16 Mr. O'Keefe when they eventually get to Fairview  
17 Road and no one else can? It's because she knew  
18 exactly where he was. She had hit him and left him  
19 there the night before and she had gone back during  
20 that time frame between 5:18 a.m., when she's seen  
21 on the temple video, and 5:35, when she arrives at  
22 Ms. McCabe's house.

23 5:23 -- I'm sorry. 5:33 is when the  
24 defendant, Ms. McCabe and Ms. Roberts return to One  
25 Meadows Ave., searching for John.

1           6:03 is when the defendant and no one else  
2 spots Mr. O'Keefe's body buried in the snow.  
3 Exhibit 12, indicating this cruiser camera video,  
4 which I know you've seen a dozen times before. So  
5 where I'm starting it from this point in this part  
6 right here is the spotlight that Officer Saraf had  
7 to use in order to locate, even with the vehicle of  
8 Ms. Roberts parked right in the middle of the road.  
9 (Whereupon, video is played.)

10           In the darkness, in the snow, in the blizzard,  
11 in those conditions, the defendant, sitting in the  
12 back seat of the vehicle, knows exactly where  
13 Mr. O'Keefe is, covered in snow, as you heard from  
14 all of the paramedics, from the civilian witnesses,  
15 from the first responders. The defendant knows  
16 exactly where he is.

17           6:07 a.m. Ms. McCabe calls 911.

18           6:08. The defendant leaves that four- or  
19 five-minute voicemail, leaving the phone in the car  
20 for some reason to Mr. O'Keefe's phone.

21           6:23 and 6:24 in the morning is when  
22 Ms. McCabe conducts those Google searches.

23           7:50 in the morning is when Mr. O'Keefe is  
24 pronounced deceased at Good Samaritan Hospital.

25           4:13 to 4:20 p.m. is when the defendant's SUV

1 is towed from her parents' house in Dighton.

2 5:20 p.m. is when the SERT team arrives in the  
3 area of 34 Fairview Road to conduct the search for  
4 evidence.

5 5:30 p.m. is when the defendant's vehicle  
6 arrives at the Canton Police Department sally port.

7 Let me circle back for a moment to  
8 Mr. O'Keefe, to his families, to his friends and to  
9 his relationship with the defendant.

10 You heard testimony from Paul and Erin O'Keefe  
11 that they liked the defendant, that they thought he  
12 (sic) was good for John, thought he (sic) was good  
13 for the kids. All outward appearances of the  
14 relationship were good. You heard testimony from  
15 the children that that was not true behind closed  
16 doors.

17 But Paul O'Keefe said that he told the  
18 defendant's parents this, that he liked Ms. Read,  
19 that he thought that she was good for John, thought  
20 that she was good for the kids, weeks before John's  
21 murder, even blew her a kiss in the emergency  
22 department at Good Samaritan as he was walking out  
23 and she was still being treated while they were  
24 there, invited over to John's house to grieve with  
25 them, invited her to sit down with him while he

1 explained to their nephew, (c), about John's  
2 passing.

3 The defendant shows up at the house, abruptly  
4 goes upstairs with her father for a period of about  
5 15 minutes, which is about half of the time that  
6 she spent there that morning, grieving with the  
7 family.

8 She left with a bag of her belongings, drove  
9 with her family there and then took an extra  
10 vehicle in the height of the blizzard now, around  
11 12:00-1:00 o'clock in the afternoon, drive that  
12 vehicle all the way from Canton, where it was  
13 parked at her boyfriend's house where she stayed  
14 over on many occasions, and drove that vehicle or  
15 felt the need to drive that vehicle from Canton,  
16 all the way down to her parents' house in Dighton  
17 at the height of the blizzard.

18 You heard testimony from Erin O'Keefe of the  
19 text messages and the phone call on January 28th.  
20 You've heard that Erin O'Keefe called the defendant  
21 on the morning of the 29th because she was  
22 concerned for her. She wanted to know what was  
23 going on with someone she considered her friend.

24 The defendant yells, John is dead.  
25 Ms. Roberts then grabs the phone and then updates

1 Erin O'Keefe as to what's going on with John. Erin  
2 O'Keefe again calls back later because she is  
3 concerned for someone that she considered her  
4 friends.

5 How does the defendant respond? These are  
6 some of the little things. The defendant indicates  
7 to Ms. O'Keefe that she just has to remember the  
8 bad times and indicates to her, I don't think I'll  
9 ever see you guys again. This is after she's done  
10 her quick-and-out at One Meadows Ave. It is now  
11 with her parents or with her father, driving that  
12 car, essentially taking the murder weapon from  
13 Canton and bringing it down to her parents' house  
14 in Dighton. She is indicating over the phone to  
15 Erin O'Keefe, I don't think I'll ever see you guys  
16 again. Why? If she didn't kill John, why would  
17 she say that?

18 You heard a lot of testimony about New Year's  
19 Eve in Aruba. You heard the testimony from  
20 Ms. O'Keefe in regard to them exchanging, her and  
21 the defendant exchanging, text messages on the  
22 flight down, arranging times to meet up, and then  
23 the defendant telling Erin via text message that  
24 she caught Johnny kissing Laura's sister in the  
25 hotel lobby. She got into an argument about it,

1 and then they never met up, meaning the defendant,  
2 Mr. O'Keefe, got into an argument about it and she  
3 and Erin O'Keefe never ended up meeting up in  
4 Aruba.

5 You heard testimony consistent from Laura  
6 Sullivan, Marietta Sullivan as well as the  
7 children. The kiss never happened. It never would  
8 happen based on the relationship, the godfather  
9 relationship that John O'Keefe had with Laura  
10 Sullivan, her family and particularly Laura  
11 Sullivan's child.

12 The defendant persists with this unfounded  
13 suspicion and accusations of infidelity in her text  
14 messages with Mr. O'Keefe, in her text messages  
15 with Mr. Higgins, where she is accusing Mr. O'Keefe  
16 of making out in the lobby with Marietta Sullivan.  
17 Both of the Sullivans and the children have the  
18 defendant and Mr. O'Keefe following this incident  
19 with Marietta Sullivan going into a room.

20 Both of the children testified that they're in  
21 that room for about 20 to 25 minutes, and they're  
22 arguing. And they're arguing about the defendant  
23 indicating that Mr. O'Keefe kissed someone in the  
24 lobby.

25 Then you have Laura Sullivan's testimony about

1 20 to 25 minutes after her sister comes out and  
2 states her displeasure about the defendant, it's  
3 about 20 to 25 minutes before Mr. O'Keefe comes  
4 out. And then he and Ms. Sullivan have a  
5 conversation.

6 Ms. Sullivan indicates that Mr. O'Keefe's  
7 phone is essentially blowing up, lighting up  
8 with calls and texts from the defendant, I would  
9 submit, similar to the afternoon of January 28th.  
10 Mr. O'Keefe says, she's crazy, and he needs to take  
11 this and goes off from there.

12 Ms. Sullivan has later conversations with  
13 Mr. O'Keefe on this Aruba trip, asks him if he's  
14 okay, asks him if he's happy. She indicated in her  
15 testimony that Mr. O'Keefe shrugs it off and says,  
16 it is what it is.

17 You heard testimony from the children about  
18 the arguments in the weeks and the months. And I  
19 know this is a displeasure to defense counsel that  
20 the children came in and actually testified as to  
21 what happened behind closed doors in the house.

22 They both recall frequent fights. They both  
23 recall Mr. O'Keefe trying multiple times to break  
24 up with the defendant, asking her to leave the  
25 house, the defendant refusing to leave the house.

1 Per his niece, (c), John tried to defuse. He  
2 tried to walk away. And the defendant would follow  
3 each time, during each argument.

4 They both indicate that Mr. O'Keefe had told  
5 the defendant that the relationship had run its  
6 course, similar to language within the text  
7 messages you have between the defendant and  
8 Mr. O'Keefe, that Mr. O'Keefe was sick of arguing,  
9 again, mirroring those text messages from January  
10 28th, leading up into going out to see if McCarthy  
11 is eventually at the Waterfall and the defendant  
12 killing Mr. O'Keefe in the early morning hours of  
13 January 29th.

14 You have the testimony in regard to the Ring  
15 camera. (c) indicated in her testimony that  
16 John had had that for about a year. So during the  
17 course of the two years or so of the relationship  
18 with the defendant, he got it while he was dating  
19 the defendant.

20 The defendant had the security code to the  
21 garage. Neither of the kids had access to the  
22 camera. Trooper Guarino checked the laptop and the  
23 desktop that were left after the defendant did the  
24 quick cleanup upstairs with her father, upstairs in  
25 the home. Neither of those devices had access to



1 the Ring cameras.

2 John had access on his phone. The defendant  
3 indicates, if you recall, in some of those text  
4 messages in regard to the romantic kiss that she  
5 placed on Mr. Higgins earlier on January whatever  
6 it was during the Patriots game. Mr. Higgins, who  
7 Mr. Jackson was indicating, weren't very good  
8 friends with Mr. O'Keefe but had been invited over  
9 to his home for a Patriots game, at which time the  
10 defendant escorted Mr. Higgins out of the garage  
11 and placed a romantic kiss on him.

12 But, during those text messages when they are  
13 talking about that, if you recall, the defendant is  
14 saying something or joking about something that  
15 Mr. O'Keefe had been looking at the videos and had  
16 been asking her if there was something going on  
17 with her and Mr. Higgins. And what was her  
18 response to that? I know where the cameras are.

19 There are only two videos missing from that  
20 Ring system, one being the defendant getting to  
21 Mr. O'Keefe's house after murdering him, and the  
22 other when the defendant is showing Ms. McCabe and  
23 Ms. Roberts the broken taillight, both of which,  
24 both Ms. McCabe and Ms. Roberts, testified as  
25 having occurred. There is no video of that.

1           There's a variety of stories that the  
2 defendant tells on the morning of January 29th.  
3 There are text messages and voicemails from the  
4 defendant to Mr. O'Keefe, 53 phone calls from 12:33  
5 a.m. to 6:03 a.m., zero phone calls to 911.

6           The defendant calls Katie Camerano. The  
7 defendant calls her parents at 1:18 in the morning,  
8 4:38 in the morning, 4:42 in the morning. They  
9 call then from (c) 's phone to Ms. McCabe because  
10 the defendant didn't have Ms. McCabe's phone  
11 number. Both (c) and Ms. McCabe indicate that  
12 the defendant initially indicates or says that she  
13 got into a fight with Mr. O'Keefe and left him at  
14 the Waterfall.

15           From this information, Ms. McCabe then  
16 testifies she starts to call Julie Albert because  
17 Chris Albert, Julie Albert, they live close by the  
18 Waterfall. Maybe that's where he went.

19           As the phone is ringing -- and this is a phone  
20 call that both Ms. Albert and Ms. McCabe testified  
21 was never answered. As the phone is ringing, her  
22 husband, Matthew McCabe, reminds her that they saw  
23 the defendant and Mr. O'Keefe in the car outside of  
24 34 Fairview. So she hangs up.

25           During this call or during these subsequent

1 calls, the defendant indicates to Ms. McCabe, maybe  
2 I hit him. Did I hit him? She then calls  
3 Ms. Roberts at 5:00 a.m. on the dot and indicates,  
4 John is dead, hangs up the phone, calls back a  
5 minute later, indicates that Mr. O'Keefe was now  
6 hit by a plow and that he's dead and then indicates  
7 further that she is drunk and doesn't remember.

8 She tells Ms. McCabe about the cracked  
9 taillight before they even get in the vehicle and  
10 go anywhere, as you recall the testimony of Matthew  
11 McCabe, indicating that he had some concerns about  
12 them driving around in a vehicle with a damaged  
13 taillight in the middle of a blizzard.

14 Ms. Roberts' testimony that she saw the broken  
15 taillight in the driveway at Ms. McCabe's house and  
16 that it was consistent with what she observed in  
17 the photographs that were shown to her of it later  
18 in the sally port at the Canton Police Department  
19 garage when the search warrant is executed on  
20 February 1st.

21 You have the text messages between the  
22 defendant and Laura Sullivan from January 29th in  
23 which the defendant indicates to Laura Sullivan  
24 that John is dead, indicates that we found him in  
25 the snow at 5:00 a.m., when every indication is

1 that he was found in the snow by the defendant,  
2 Ms. McCabe and Ms. Roberts around 6:00 a.m. 5:00  
3 a.m. would be about an hour before. 5:00 a.m.  
4 would be between that time where the defendant is  
5 unaccounted for, headed in the direction of 34  
6 Fairview Road at 5:18 to 5:35. Little things.

7 The defendant asked Ms. McCabe how long to die  
8 in the cold. She did so at 6:23 and 6:24 in the  
9 morning. You have the testimony of Ms. Hyde and  
10 Mr. Whiffin as to SQLite databases, plist databases  
11 KnowledgeC databases, State Db tabs as far as all  
12 of that also from Trooper Guarino, as well.

13 These searches were unequivocally done at 6:23  
14 and 6:24 in the morning and not at 2:27:40 in the  
15 morning. They were not deleted by a user. That is  
16 not what deleted means. Frankly, Mr. Green, the  
17 last question that I asked Mr. Green is, was he  
18 aware that Cellebrite, and, by "Cellebrite," the  
19 person who designed that, being Mr. Whiffin, had to  
20 alter exactly how their software worked because of  
21 people like Mr. Green misinterpreting the data as  
22 he did in this case. And what did Mr. Green say?  
23 Yes.

24 But those questions as far as how long to die  
25 in the cold, I would submit, mirror the questions

1           that the defendant asked Firefighter Whitley in the  
2           back of the ambulance. If you recall those, she  
3           asked Firefighter Whitley how long to die in the  
4           cold without a jacket. She knew how Mr. O'Keefe  
5           was dressed. She knew when she left him to die in  
6           the cold how he was dressed.

7           The defendant made statements to Firefighter  
8           Becker that the last time that she saw Mr. O'Keefe,  
9           they were in an argument, again, in the back of the  
10          same ambulance as Firefighter Whitley.

11          You have testimony from Firefighter Woodbury,  
12          the same kind of questions, if Mr. O'Keefe could be  
13          alive without a jacket.

14          You have the testimony from each of these  
15          firefighters as to sort of the vacillating,  
16          emotional state of the defendant that morning.  
17          What you have in the testimony from firefighter  
18          Woodbury is that despite all that, there are no  
19          tears that he observed from the defendant at that  
20          time.

21          What each of those first responders indicated  
22          was that the defendant repeatedly stated, is he  
23          dead, is he dead, not is he okay, is he going to be  
24          okay, how is he, any sort of questions about the  
25          medical condition. Is he dead, that phraseology

1 repeated over and over and over again. And, when  
2 you take into juxtaposition that phraseology, the  
3 text to Laura Sullivan, we found him in the snow at  
4 5:00 a.m., the unaccounted-for time heading in the  
5 direction of 34 Fairview Road, 5:18 to 5:35, the  
6 repeated questioning of Firefighter Whitley,  
7 Firefighter Woodbury, asking Ms. McCabe to look up  
8 those things in her phone.

9 She is looking for confirmation, is what she's  
10 looking for, when she asks over and over again, is  
11 he dead, is he dead, is he dead.

12 You have the testimony that you heard from  
13 Ms. McCabe and Ms. Roberts. I say them together  
14 because as far as these two women were concerned,  
15 they did not know each other really at all. The  
16 only time, as they both testified to, that they had  
17 ever spent appreciably together prior to January  
18 29th, 2022 is when Mr. O'Keefe nicely took them out  
19 for sneakers because he had some sort of deal at a  
20 Reebok's outlet or something like that to sort of  
21 try to pay them back for the help that they  
22 provided him and the children, Jennifer with  
23 respect to the niece and Kerry with respect to the  
24 nephew.

25 But they are both contacted by the defendant

1 in the early morning of January, of January 29th.  
2 As Ms. McCabe testified, John was my friend. I  
3 loved John. He was an amazing guy.

4 At the Waterfall, Mr. Albert said, going home  
5 to have a drink with his son, Brian, Jr., if anyone  
6 wants to come, an open invitation to the table.  
7 She said to Mr. O'Keefe and the defendant, you guys  
8 should come. Both the defendant and the victim  
9 indicated that they wanted to come and that they  
10 were coming.

11 She describes the phone calls and the text  
12 messages that she receives from Mr. O'Keefe, that  
13 she's providing directions. She indicates she's  
14 providing directions to go down Chapman. She  
15 describes how that is. And you've heard this  
16 testimony from a couple of different witnesses as  
17 far as the steepness as you're going down Chapman  
18 -- excuse me -- going down Fairview and coming off  
19 of Chapman, that you first go down a big, steep  
20 hill. It flattens out for a little bit, and then  
21 you go down a second hill, two hills going down on  
22 Chapman, matching the GPS native location and the  
23 health data as far as where Mr. O'Keefe's phone is  
24 a half mile away from 34 Fairview Road at the time  
25 that his health data is recording that he's

1 ascending or descending three flights of stairs.

2 You hear the testimony from Ms. McCabe as far  
3 as the last time she spoke to Mr. O'Keefe. And she  
4 is still trying to provide directions to Fairview  
5 because Mr. O'Keefe has never been there before and  
6 neither has the defendant, which is further  
7 corroborated with Trooper Guarino's testimony as  
8 far as the vehicle passing by Fairview and then  
9 coming back in on the other side, having to reverse  
10 direction. But she's giving directions and she  
11 indicates that she uses a house that Mr. O'Keefe  
12 would be familiar with that belonging to (c) or  
13 (c)'s mom.

14 (c)'s mom is an ex-girlfriend for a short  
15 period of time from a long time ago. However,  
16 in the defendant's mind, it's so fresh and on her  
17 mind that she's still talking about it the next  
18 morning or later on that morning when she's riding,  
19 going towards Fairview Road with Ms. Roberts and  
20 Ms. McCabe in Ms. Roberts' car. She is still  
21 talking about that at that time, it's that much on  
22 her mind.

23 Ms. McCabe indicated that she looked out and  
24 she saw the vehicle initially in front of the front  
25 door, as did Mr. McCabe, as did Brian Albert, Jr.,



1 as did Julie Nagel, as did Ryan Nagel, and the  
2 vehicle moved up several times or several spots to  
3 where it was then positioned initially at some  
4 point in front of the door. Then it moves up  
5 further so that it's in the area of the fire  
6 hydrant and the flagpole where Mr. O'Keefe's body  
7 was discovered later on that morning, at least by  
8 Ms. McCabe and Ms. Roberts, and then moves up  
9 further beyond that.

10 And I say that in the sense that it moves up  
11 further beyond that with sufficient distance for it  
12 to then go in reverse for 62 1/2 feet to at 24.2  
13 miles per hour, striking Mr. O'Keefe and leaving  
14 him where he was found later on on the 29th.

15 Again, the testimony from Ms. McCabe that  
16 about 12:40 when she's texting him, she's indicated  
17 in her testimony she couldn't be certain if  
18 Mr. O'Keefe was still out front or had left at that  
19 point.

20 She wakes up to a phone call from John's  
21 niece, (c) [REDACTED], at 4:53 in the morning. This is  
22 from an eighth grader, a 14-year-old girl. That's  
23 why she answers the phone at 4:53 in the morning.

24 She then hears the defendant screaming loudly,  
25 over and over again, Jen, Jen, Jen. John didn't

1           come home. We got in a fight and I left him at the  
2           Waterfall.

3           The variations, the different iterations of  
4           that story as it evolves and changes over the  
5           course of that morning.

6           Ms. McCabe then indicates to the defendant, we  
7           saw you outside of my sister's house. Then she  
8           starts yelling, Jen, Jen, did I hit him? Could I  
9           hit him? Then they start discussing or the  
10          defendant brings up her cracked taillight, and then  
11          hear her, both Ms. McCabe and Mr. McCabe, hear the  
12          defendant screaming outside of their home at about  
13          5:00 o'clock in the morning or shortly after 5:00  
14          o'clock in the morning.

15          They go to Mr. O'Keefe's house, and both  
16          Ms. McCabe and Ms. Roberts indicate, and you heard  
17          this testimony from a number of different  
18          witnesses, friends and family of Mr. O'Keefe, that  
19          he had a rule, a pretty strict rule, in his house  
20          as far as you take your shoes off when you come in  
21          the house.

22          And so what do Ms. McCabe and Ms. Roberts both  
23          do when they are entering in that house on January  
24          29th? They take off their boots. They've been out  
25          in the snow. They take off their boots in the

1 mudroom and then they walk in. What did they both  
2 indicate that the defendant did that morning when  
3 she came back to the house? She walked right in  
4 with the shoes on.

5 You hear that second voicemail. It's after  
6 the defendant arrives back at One Meadows Ave.  
7 after her phone is reconnected with Mr. O'Keefe's  
8 WiFi. And you can hear the footsteps. Part of  
9 that may be in the garage. Part of that might be  
10 in the house.

11 Why is it that the defendant has no issue with  
12 wearing shoes in the house when Mr. O'Keefe has  
13 that strict rule? Because she knows where he is.  
14 She knows it's not an issue; he's not coming home  
15 because she hit him with her SUV and she left him  
16 in the snow.

17 Ms. Roberts and Ms. McCabe are frantically  
18 sort of running around the house, looking for  
19 Mr. O'Keefe. The defendant is not. They then get  
20 in the vehicle. They drive back towards Fairview  
21 Road. And, again, the defendant, from the back  
22 seat of the vehicle, immediately sees the  
23 defendant, starts pulling and kicking on the door  
24 and runs in sort of a B-line, straight over to  
25 where Mr. O'Keefe is laying on the front lawn.

1           We have the testimony from Ms. Roberts as far  
2           as John's phone. John's phone, when the  
3           firefighters pick him up, and you'll recall several  
4           witnesses testifying about that, pick him up on the  
5           scoop stretcher and bring him over to the ambulance  
6           while they are conducting the resuscitative  
7           efforts, trying to save Mr. O'Keefe's life.

8           What did Ms. Roberts indicate that she  
9           observed underneath him? The phone, the phone on  
10          the grass, on the grass in the area that is  
11          completely covered in snow in every other area  
12          except under Mr. O'Keefe, which I would submit  
13          indicates how long Mr. O'Keefe has been there.

14          Now, recall, around 12:00 o'clock or so is  
15          when it starts to snow and it starts to stick a  
16          little bit, and you heard all of that testimony.  
17          And I know it was a lot of testimony about snow and  
18          a lot of testimony about weather, but there is a  
19          purpose to that. There is a point to that, okay,  
20          as far as the grass underneath Mr. O'Keefe's body  
21          where his cell phone was and Ms. Roberts observes  
22          some six hours later after it starts snowing. It's  
23          still visible only under Mr. O'Keefe where his body  
24          is, which I would submit is evidence to you as to  
25          how long he's been there.

1           Now, on top of that, you also have hours of  
2 Ring video, of the driveway as far as shoveling and  
3 Paul O'Keefe and other people snow blowing and  
4 shoveling and all those kinds of things. There is  
5 a purpose to that, as well.

6           If you look at those, if you look at the video  
7 of the defendant crashing into Mr. O'Keefe's  
8 vehicle at a speed of anywhere from zero to five,  
9 which even Dr. Wolfe would indicate would not cause  
10 the damage to the taillight that was observed in  
11 this case -- but you know what you don't see? You  
12 don't see snow move off Mr. O'Keefe's vehicle when  
13 they come into contact. You don't see any red or  
14 clear plastic pieces in the snow. And, if you look  
15 at those stills, not the ones that counsel put up  
16 there during his closing, but if you look at each  
17 of the video and the stills, you can see the damage  
18 consistent with the taillight at each and every  
19 point. You see the damage consistent with the  
20 taillight from the 5:07 video. You see the damage  
21 consistent from the 8:22 video from Lieutenant Rae  
22 from the cruiser camera video when he's pulling  
23 into the driveway. You see the damage consistent  
24 from the Dighton video at the defendant's home.  
25 You see the damage consistent from the light here,

1 February 1st, 2022, when the search warrant is  
2 conducted and Ms. Hartnett removes all those pieces  
3 from the vehicle.

4 The weather is also important when it comes to  
5 the hair, the magic hair, as Mr. Jackson likes to  
6 call it. See, the magic hair was actually frozen  
7 to the vehicle, as was the glass to the bumper,  
8 because the vehicle looked like that on the left  
9 when it was caked in snow when Officer Barros saw  
10 it in the driveway in Dighton as they were wading  
11 through a foot and a half of snow, walking up,  
12 because, remember, they didn't even pull into the  
13 driveway because they had to have someone come down  
14 and plow it before they could get into it. That's  
15 what the vehicle looked like.

16 What you can see, however, is the damage to  
17 the taillight, to the side of that taillight  
18 consistent with it. So that hair, that seven-  
19 eighths of an inch hair, was frozen to the side.  
20 And, as you remember the testimony from Sergeant  
21 Bukhenik about the heated condition of the Canton  
22 Police Department garage -- and that's one of the  
23 reasons they took it there, because the other  
24 barracks that they could have taken it to didn't  
25 have that heated condition.

1           So, yes, after it's been in there from January  
2           29th at about 5:30 p.m. until February 1st, when  
3           they conducted the search warrant, the hair isn't  
4           still frozen as it's contained within a heated  
5           garage, and the pieces of glass on the rear bumper  
6           have melted. The snow has melted, as you can see,  
7           from left to right.

8           The weather, also important, I would submit.  
9           The weather was the weather. Remember, the cause  
10          of death here is not just blunt impact injuries.  
11          There's blunt impact injuries and hypothermia. And  
12          you heard all that medical testimony in relation to  
13          it, and you heard all that testimony in relation to  
14          the snow and the weather and the wind, wind gusts  
15          up to 37 miles per hour, while Mr. O'Keefe is out  
16          there in just a shirt and jeans.

17          Now, you heard also testimony from Ms. Roberts  
18          in relation to the injuries she observed to  
19          Mr. O'Keefe, that initially on scene there was  
20          one eye that was swollen, not the other. I  
21          submit that's an indication of the swelling that  
22          Dr. Scordi-Bello was testifying to and no  
23          indication of physical altercation. And then both  
24          eyes being swollen when Ms. Roberts viewed  
25          Mr. O'Keefe's body after his passing at the Good

1 Samaritan.

2 I submit that all the testimony tells you the  
3 same consistent account, internally, externally,  
4 from civilian testimony, to investigator testimony,  
5 to medical testimony, to forensic testimony, to the  
6 reconstruction testimony.

7 You have the testimony from Ms. McCabe and  
8 Ms. Roberts that they couldn't see Mr. O'Keefe at  
9 Fairview when they initially pulled up. You can  
10 see that from Officer Saraf's cruiser video.

11 You have Mr. O'Keefe being covered in snow  
12 from the storm. You know where Mr. O'Keefe's body  
13 was. It's clearly visible on the cruiser camera  
14 from Officer Saraf. You have the testimony of each  
15 of the responding officers anywhere from five to 12  
16 feet off the roadway, and from the civilians, as  
17 well.

18 Ms. McCabe, Ms. Roberts, Officer Mullaney has  
19 six inches of snow on Mr. O'Keefe when he first  
20 sees him. Firefighter Kelly says that he couldn't  
21 even see Mr. O'Keefe until he was five feet away,  
22 in the darkness, in the snow, in the blizzard  
23 conditions. There's no footprints around the body.  
24 There's no drag marks around the body.

25 There is no evidence of anything in relation



1 to Brian Albert and Brian Higgins. Brian Albert  
2 and Brian Higgins spent January 28, 2022 traveling  
3 to New York City to go to a funeral for another  
4 police officer for another department who they  
5 didn't even know, traveled all the way down to New  
6 York and then came back before the blizzard, only  
7 to come back from that to go out drinking, to come  
8 back to Mr. Albert's house, to then murder another  
9 police officer who they did know who worked for the  
10 same department as them.

11 And then, criminal mastermind genius that  
12 Brian Albert is, 28 years on the Boston Police  
13 Department, he's then just going to leave  
14 Mr. O'Keefe's body on his front lawn? Really?  
15 That's the conspiracy? What evidence do you have  
16 of that?

17 You have statements that the defendant made to  
18 Sergeant Bukhenik on January 29th. She was willing  
19 to speak but didn't want to give too much detail.  
20 A conversational tone throughout. She indicated  
21 that the night before, they had gotten into an  
22 argument, something about what was fed to the  
23 children, nothing about the detailed arguments and  
24 incessant phone calls and everything else that you  
25 saw from the defendant and Mr. O'Keefe's phone on

1 the 28th.

2 She indicated going to C.F. McCarthy's around  
3 9:00 p.m., started drinking vodka sodas. The men  
4 were drinking beers. When asked where she parked  
5 her vehicle, she said she parked on Washington  
6 Street, across from C.F. McCarthy's, facing  
7 northbound on the same side as Waterfall, the same  
8 testimony that you heard from Ms. Kolokithas,  
9 observing the defendant going over to her vehicle,  
10 getting in the driver's seat and then the victim,  
11 Mr. O'Keefe, getting into the passenger seat.

12 She said they left the Waterfall, were invited  
13 to a residence. She drove her and John to the  
14 location in Canton. She dropped Mr. O'Keefe off,  
15 did not see him walk in the home. She, being the  
16 defendant, stated she made a three-point turn and  
17 then left. When asked about the damage to her  
18 vehicle, she indicated to the troopers, I don't  
19 know. It happened last night.

20 June 2022. You have that other reporting of  
21 that other version that she now has evolved into as  
22 far as stating to Sergeant Bukhenik that John was  
23 beaten up by Brian and Colin Albert? We're all in  
24 on the same joke, right? John was pulverized and  
25 my taillight was cracked. What evidence do you

1 have of that?

2 Mr. O'Keefe never went in the house. You have  
3 testimony from Nicole Albert; Brian Albert;  
4 Jennifer McCabe; Matthew McCabe; Caitlin Albert;  
5 Brian Albert, Jr.; Sara Levinson; Julie Nagel, all  
6 indicating never went in the house. John O'Keefe's  
7 phone never went in the house from the testimony  
8 and the data points that you have from Trooper  
9 Guarino.

10 You know how Mr. O'Keefe was dressed, and you  
11 know the defendant knew that. You have the  
12 testimony from Kurt Roberts, Jennifer McCabe,  
13 Matthew McCabe, Karina Kolokithas, Nicholas  
14 Kolokithas, Brian Albert, Nicole Albert, Brian  
15 Higgins, all indicated in their testimony, and the  
16 defendant knew based on her questions to the  
17 firefighters the next morning, that Mr. O'Keefe was  
18 not dressed for the weather when he left the  
19 Waterfall.

20 The weather was a weapon. You have the  
21 testimony about the car, the defendant's car being  
22 there in front of the house, moving multiple times.  
23 You have that from multiple sources. You have that  
24 from Matthew McCabe. You have that from Jennifer  
25 McCabe. You have that from Brian Albert, Jr. You

1 have that from Julie Nagel. You have that from  
2 Ryan Nagel.

3 You have the testimony of Ryan Nagel, Ricky  
4 D'Antuono and Heather Maxon. Ms. Maxon indicated  
5 she saw a male passenger, a female operator as the  
6 vehicle was turning. Remember, they're coming  
7 towards Fairview at the same time. The defendant,  
8 after conducting that reverse or three-point turn  
9 on Cedarcrest, is then taking a right onto Fairview  
10 while Mr. Nagel and Mr. D'Antuono and Ms. Maxon are  
11 taking a left onto Fairview.

12 Mr. Nagel indicates that Mr. D'Antuono then  
13 flashed his lights. During that time, Ms. Maxon  
14 can see inside the vehicle. She sees a male  
15 passenger. She sees a female operator. They  
16 follow the vehicle as they are turning onto the  
17 street. Lo and behold, they are going to the same  
18 residence.

19 They park. There is nothing in between them  
20 and the defendant's vehicle. They indicate that at  
21 no time do they see anybody get out of the vehicle.  
22 At no time do they see any damage to the vehicle  
23 because the murder hasn't happened yet. At no time  
24 do they see anyone leave the vehicle and go into  
25 the house. The vehicle moves up on different,

1 successive occasions, as testified to by Mr. Nagel  
2 and several others. As they are passing that  
3 vehicle, Mr. Nagle indicates that he sees a female  
4 operator in the vehicle with the dome light on.

5 Now, interesting, when I asked Mr. Nagel as  
6 far as when Julie Nagle came out to the vehicle did  
7 he roll down the window or did he open the door, he  
8 indicated he opened the door. And I asked him,  
9 what happened when you opened the door? What  
10 happens when you open the door to a vehicle? The  
11 dome light comes on.

12 So the reason, I would submit, or the  
13 inference that you can make is that no one sees  
14 Mr. O'Keefe in the vehicle because that's the  
15 moment he steps out of the vehicle. And then they  
16 are gone. The Nagels, Ryan Nagel, Ricky D'Antuono  
17 and Heather Maxon drive away from them.

18 You heard the testimony from Julie Nagel and  
19 Sara Levinson, the peanut butter and jelly sandwich  
20 conversation they had with Ms. McCabe which, while  
21 they are pulling away from the house where  
22 everybody's attention is drawn, Ms. McCabe is  
23 turned around, facing both of them in the back  
24 seat. Ms. Nagel is facing Ms. Levinson on the  
25 passenger side, looking out the window towards 34

1 Fairview Road. Ms. Levinson is looking back at  
2 Ms. Nagel, away from that area, in which Ms. Nagel  
3 indicates that she sees a five- to six-foot dark  
4 blob on the lawn near the pole and the hydrant,  
5 which is just where Mr. O'Keefe is discovered the  
6 next morning.

7 You have the testimony, you recall, and you  
8 have text messages in regard to Colin Albert when  
9 he gets picked up from Colin --

10 THE COURT: Mr. Lally, five minutes.

11 MR. LALLY: Yes, Your Honor.

12 From Colin Albert; Allison McCabe; Brian  
13 Albert; Nicole Albert; Caitlin Albert; Brian, Jr.  
14 all indicated that he was picked up around that  
15 time at 12:10 a.m. You have the testimony from  
16 Chris and Julie Albert, his parents, as far as when  
17 he comes home and kisses them goodnight before he  
18 goes to bed.

19 You have that testimony in regard to Chris  
20 Albert as far as John O'Keefe and the defendant  
21 come to be at the Waterfall in the first place as  
22 far as John O'Keefe and his nephew coming in  
23 earlier in the day, getting a couple slices of  
24 pizza, what are you doing later on, contained  
25 within those text messages.

1           You have the testimony from Lieutenant O'Hara,  
2           Lieutenant Tully, Sergeant Bukhenik about those  
3           items being recovered. And, in particular, the  
4           items being recovered on January 29th by that SERT  
5           team, what did Lieutenant O'Hara say? The items  
6           were found close to the curb. The items were at  
7           ground level, three feet of snow that they had to  
8           sift through in order to find those particular  
9           things.

10           The detail or the delay in the recovery of  
11           evidence, the photos in the video, most of which  
12           you have in evidence, is earlier in the storm.  
13           This is before the 18 inches of snow falls down,  
14           before there is drifts and three feet of snow in  
15           places. They found the evidence where it had been  
16           at that same ground level, in the grass, under the  
17           snow at 34 Fairview Road.

18           You heard all of the medical testimony which I  
19           would submit is consistent from Firefighter  
20           Flematti to Dr. Rice. You heard the testimony  
21           regarding the defendant's blood alcohol  
22           concentration from Dr. Faller and Nick Roberts, 93  
23           milligrams per deciliter; .07 to .08 percent at  
24           9:08 in the morning.

25           You heard Mr. Roberts' testimony in regard to

1 the retrograde extrapolation, .13 to .29,  
2 extrapolating back to the time of the operation.  
3 The defendant admits to drinking vodka. It's on  
4 the receipts from C.F. McCarthy's and from the  
5 Waterfall, and you have the witness's testimony and  
6 the surveillance videos.

7 The forensic testimony that you have: In  
8 regard to the medical testimony, you have the sort  
9 of pattern abrasions, the clear plastic that's  
10 recovered by Lieutenant O'Hara and Lieutenant Tully  
11 on January 29th, the clear plastic that has the  
12 dimples on it. No one, not Trooper Paul, not  
13 anyone at any point in time ever said that  
14 Mr. O'Keefe's arm was out like this at the time  
15 that he is struck and that he did a pirouette and  
16 then flew 30 feet in the air.

17 The 12 inches of abrasions that the doctors or  
18 the biomechanical people were talking about  
19 yesterday, 12 inches, and then six inches for the  
20 taillight, is easily solved by this, and the  
21 dimples on his arm that I would submit are  
22 consistent with the dimples on the taillight copper  
23 piece are right around this area of the elbow.

24 You have the testimony in regard to forensics  
25 as far as Mr. Porto and Mr. Bradford. John



1 O'Keefe's DNA is on that taillight housing, on the  
2 housing. His DNA is there to the exclusion, as  
3 well, of Sergeant Bukhenik and Trooper Proctor.  
4 Mr. O'Keefe's DNA is on the exterior of the broken  
5 drinking glass. Mr. O'Keefe's DNA and only  
6 Mr. O'Keefe's DNA is on his clothing and his  
7 fingernails, consistent with Dr. Scordi-Bello's  
8 testimony that there is no evidence of a fight or  
9 an altercation. There is no one else's DNA under  
10 his fingernails. There's no one else's DNA on his  
11 clothing.

12 You have the testimony from Ms. Hartnett and  
13 Trooper Paul in regard to the damage that they  
14 observed, the dent, the scratches, the seven-eighth  
15 of a inch hair. You have the testimony from  
16 Ms. Chart in regard to the mitochondrial DNA  
17 profile from that hair being consistent with the  
18 DNA profile of Mr. O'Keefe.

19 You have the testimony from Ms. Vaillier and  
20 Ms. Hanley in regard to the microscopic pieces,  
21 1/16 of an inch by 1/16 of an inch --

22 THE COURT: You have one minute, Mr. Lally.  
23 Wrap it up.

24 MR. LALLY: Yes, Your Honor.

25 -- all consistent with the pieces of taillight

1           that are found within his clothing.

2           Ms. Gillman, if I could? This is what this  
3           vehicle looked like backing up at that speed for  
4           approximately that distance.

5           There was another lawyer years and years ago  
6           who started practicing in Norfolk County in  
7           Braintree, what is now Quincy, and eventually  
8           became a far smarter man than myself, eventually  
9           became president of the United States. His name  
10          was John Adams.

11          John Adams once wrote, "Facts are stubborn  
12          things and whatever may be our wishes, our  
13          inclinations or the dictates of our passions, they  
14          cannot alter the state of the facts and the  
15          evidence."

16          What the constellation of the facts and the  
17          evidence ineluctably demonstrate here is that the  
18          defendant drove her vehicle in reverse for 24.2  
19          miles per hour for 62 1/2 feet, struck Mr. O'Keefe,  
20          causing those catastrophic head injuries, leaving  
21          him incapacitated and freezing to death.

22          THE COURT: Mr. Lally, I have to stop you.

23          MR. LALLY: I literally have one sentence  
24          left, Your Honor.

25          THE COURT: One sentence.

1           MR. LALLY: From those facts and that  
2 evidence, I would submit it ineluctably  
3 demonstrates her guilt on each of the indictments  
4 before you, and I would ask you to find her so.  
5 Thank you.

6           THE COURT: All right. Thank you.

7           Jurors, I have my instructions on the law I'm  
8 going to give you. My guess is it's probably about  
9 an hour. I'd like to start it now but, if anybody  
10 -- does anybody need a short break? We can take a  
11 short break.

12          Okay. We will come back in five minutes.

13          (Whereupon, the jury is escorted from the courtroom  
14 and a brief recess is taken.)

15          (Court resumes.)

16          (Defendant present. Jury present.)

17                   **JUDGE'S CHARGE TO THE JURY**

18          THE COURT: All right, jurors. Thank you for  
19 serving on this jury and for being so attentive.  
20 You will soon deliberate for the purposes of  
21 reaching a verdict in this case. But, before you  
22 do that, it's my responsibility to give you  
23 instructions concerning the law.

24          The instructions are divided into three parts.  
25 The first is general instructions that are provided

1 in every criminal case; the second, specific  
2 instructions concerning the crimes alleged in this  
3 case; and, third, guidelines for your  
4 deliberations. Please listen carefully to all of  
5 the instructions. Do not ignore any instruction or  
6 give special attention to any other instruction.

7 To make sure that I give you the instructions  
8 accurately, I will read them to you. You will also  
9 get a written copy. I'll probably send in three or  
10 four to the jury so that you can refer to it in the  
11 jury room during your deliberations. I will try to  
12 make sure that my oral instructions match the  
13 written instructions. If there is any difference  
14 between what I say aloud and what the written  
15 instructions say, please follow what I say aloud.

16 You must take the law as I give it to you.  
17 You may not quarrel with it. You can't do that  
18 regardless of any opinion you may have as to what  
19 you think the law ought to be. What the lawyers or  
20 witnesses may say or suggest about the law is not  
21 necessarily the law. That's because it's my  
22 responsibility as the judge and mine, alone, to  
23 instruct you on what the law is. So I now will  
24 turn to part one of the instructions, the general  
25 instructions that apply to all criminal cases.

1           As I explained to you at the beginning of the  
2 trial, there is a fundamental rule that applies in  
3 all criminal case, including this case. Every  
4 person who is accused of a crime is presumed to be  
5 innocent of that crime. Ms. Read is presumed  
6 innocent of the charges in this case. That means  
7 you must consider Ms. Read to be innocent unless  
8 the prosecution has proved beyond a reasonable  
9 doubt through evidence presented during the trial  
10 that Ms. Read committed the crimes charged. I will  
11 explain reasonable doubt in just a moment.

12           Ms. Read does not have to do anything to  
13 convince you that she is innocent. She does not  
14 have to explain anything. Ms. Read does not have  
15 to testify, call or question witnesses or provide  
16 any evidence at all because you must presume she is  
17 innocent.

18           Instead, it is up to the Commonwealth to prove  
19 the charges against Ms. Read beyond a reasonable  
20 doubt. The burden of proof never shifts to the  
21 defendant.

22           After you have considered all the evidence  
23 carefully and fairly, if you have a reasonable  
24 doubt about Ms. Read's guilt on a particular  
25 charge, then your verdict must be not guilty on

1       that charge. You may find Ms. Read guilty of a  
2       charge only if all 12 deliberating jurors agree  
3       that the Commonwealth has proved the charge beyond  
4       a reasonable doubt.

5               What is proof beyond a reasonable doubt? The  
6       term is often used and probably pretty well  
7       understood, though it is not easily defined. Proof  
8       beyond a reasonable doubt does not mean proof  
9       beyond all possible doubt for everything in the  
10      lives of human beings is open to some possible or  
11      imaginary doubt.

12             A charge is proved beyond a reasonable doubt  
13      if after you have compared and considered all the  
14      evidence, you have in your minds an abiding  
15      conviction to a moral certainty that the charge is  
16      true.

17             When we refer to moral certainty, we mean the  
18      highest degree of certainty possible in matters  
19      relating to human affairs based solely on the  
20      evidence that has been put before you in this case.

21             I have told you that every person is presumed  
22      to be innocent unless and until he or she is proved  
23      guilty and that the burden of proof is on the  
24      Commonwealth. If you evaluate all the evidence and  
25      you still have a reasonable doubt remaining, the

1 defendant is entitled to the benefit of that doubt  
2 and must be acquitted.

3 It is not enough for the Commonwealth to  
4 establish a probability, even a strong probability,  
5 that the defendant is more likely to be guilty than  
6 not guilty. That is not enough. Instead, the  
7 evidence must convince you of the defendant's guilt  
8 to a reasonable and moral certainty, a certainty  
9 that convinces your understanding and satisfies  
10 your reason and judgment as jurors who are sworn to  
11 act conscientiously on the evidence. This is what  
12 we mean by proof beyond a reasonable doubt.

13 Now, how do you decide whether the  
14 Commonwealth has proven each element of an  
15 indictment is true beyond a reasonable doubt?  
16 Let's talk first about the rules we all have.

17 You folks are the most important people in the  
18 courtroom. It all begins and ends with your  
19 function. You will determine the facts in this  
20 case, and that is your job and your job, alone.  
21 You are the sole and exclusive judges of the facts.  
22 If there are any conflicts in the testimony, it is  
23 your job to resolve those conflicts if you can do  
24 so.

25 Once you determine the facts, it is your duty

1 to apply those facts to the law as I explain it to  
2 you and to determine whether the Commonwealth has  
3 proven its case beyond a reasonable doubt. You  
4 must determine the facts solely and entirely on the  
5 evidence as you have heard it and seen it in this  
6 courtroom and on nothing else, no prejudice, no  
7 bias, no fear, no favor.

8 You must not be swayed by personal likes or  
9 dislikes. Your deliberations are no place for  
10 emotion or sympathy, passion or prejudice. The  
11 Commonwealth and Karen Read have a right to have  
12 the case judged by fair and impartial jurors. All  
13 parties who come before the court stand as equals  
14 before you. Therefore, your verdicts must be based  
15 on the law as I've given it to you and on the  
16 evidence and the facts that you find and nothing  
17 else.

18 You cannot allow yourselves to be influenced  
19 by any personal feelings you may have about the  
20 nature of the crimes with which Ms. Read has been  
21 charged or the consequences of your verdict, just  
22 the cool, reflective and impartial sifting of the  
23 evidence so that here in this courtroom justice may  
24 be done.

25 Now, your focus is on the evidence. I am the



1 judge of the law. My job is to teach you the law  
2 that you must follow in this case. However, I have  
3 no opinion about how you decide this case. You  
4 should not consider anything I have said or done  
5 during the trial as reflecting any opinion by me  
6 about how you should decide this case.

7 If you believe that I have an opinion about  
8 the facts of this case, you must disregard it. You  
9 must decide this case based solely on the  
10 evaluations of the evidence.

11 Now, the arguments of the lawyers are not  
12 evidence. They are not witnesses. If a lawyer  
13 during argument made a mistake in summarizing the  
14 evidence or argued something not supported by the  
15 evidence, you must disregard it. It is the jury's  
16 collective memory of the evidence that controls the  
17 matter.

18 Lawyers' objections are a proper part of the  
19 Court's procedure and are not part of the evidence.  
20 So don't hold it against the lawyers or their  
21 client if they made objections, motions or other  
22 requests. They are simply doing their job during a  
23 trial.

24 There was testimony at trial that the lawyers  
25 interviewed witnesses when preparing for and during

1 the course of the trial. You may not draw any  
2 unfavorable inferences solely from that fact.  
3 There is nothing improper about conducting such  
4 interviews. On the contrary. The lawyers are  
5 obliged to prepare their case as thoroughly as  
6 possible and may interview witnesses.

7 Now, the verdict must be based only on the  
8 evidence and the jury's collective reasoning  
9 applied to the evidence in a fair and impartial  
10 manner. The extent to which you believe or  
11 disbelieve a witness or what a witness purports to  
12 show, the importance to give any testimony or other  
13 evidence is entirely up to your own good judgment.  
14 The evidence consists of the testimony of the  
15 witnesses and the exhibits in the case.

16 There are some things you have heard about  
17 that have not been introduced into evidence such as  
18 written statements by witnesses, police reports,  
19 autopsy and accident reconstruction reports.  
20 Occasionally during the trial, you have heard  
21 references to such documents and you may naturally  
22 wonder why neither side introduced any of them into  
23 evidence.

24 The answer is that under our rules of  
25 evidence, such reports usually may not be admitted,

1 although the parties may refer to them for certain  
2 limited purposes while questioning witnesses. So  
3 you should not hold it against any party that you  
4 do not have them, and neither should you speculate  
5 on what they may or may not contain.

6 Similarly, as you review exhibits, you may  
7 find that some information has been removed because  
8 it is not relevant. Please ignore that and don't  
9 try to guess what may have been removed or why.

10 Any information that you may have read, heard  
11 or seen about this case outside of the courtroom is  
12 not evidence. My instructions to you and any other  
13 comments I made, the lawyers' opening and closing  
14 statements and any comments they may have made are  
15 not evidence. Answers that I struck from the  
16 record and told you to disregard are not evidence.  
17 Only the testimony of the witnesses, that is, their  
18 answers to questions, and the exhibits are  
19 evidence.

20 It is important to remind you folks that the  
21 verdict cannot be based on emotional reaction or  
22 sympathy for any person or side of this case.  
23 Certain of the testimony and exhibits may have  
24 provoked an emotional reaction in all of us. You  
25 may feel sympathy for the family of Mr. O'Keefe,

1 and you may feel sympathy for the defendant as she  
2 sits here in this courtroom. But your job is to  
3 decide the case without bias, fear, sympathy or  
4 favor, to view the evidence with a certain clinical  
5 detachment and to decide the case based solely on  
6 the evidence and the application of the law to that  
7 evidence.

8 I have allowed you to take notes during the  
9 trial, and you may refer to those notes during your  
10 deliberations. But remember, they are not evidence  
11 or a substitute for the evidence and your  
12 recollection. They are for your personal use.  
13 Please do not share them with other jurors.

14 Consider the evidence as a whole. Do not make  
15 up your mind about what the verdict should be until  
16 after you've gone to the jury room to decide the  
17 case and you and your fellow jurors have discussed  
18 the evidence. Please keep an open mind until then.

19 You'll remember that we took a view in this  
20 case. The purpose of the view was to help you  
21 better understand the evidence that you heard  
22 during the trial and to help you appreciate the  
23 locations and their surroundings. Your  
24 responsibility in the view was to see the places,  
25 observe them carefully and remember what you saw.

1           The view is part of this case. You may use  
2           and consider the observations that you made while  
3           on the view in your deliberations in reaching a  
4           verdict. The same is true about the demonstration  
5           we saw from the witness stand. The demonstration  
6           was done simply to help you understand the  
7           evidence, and you may consider it in your  
8           deliberations.

9           It is the jury's job to earnestly seek the  
10          truth of the matter. In doing that, the jury must  
11          decide questions of credibility and reliability.  
12          The jury must decide how truthful or reliable or  
13          convincing any part of the evidence is.

14          In deciding questions of credibility and  
15          reliability, you may rely on your common sense and  
16          reasoning powers and your life experiences.  
17          Consider a witness's testimony in the context of  
18          all the other evidence, not in isolation. You may  
19          consider the demeanor, candor and appearance of the  
20          witness in testifying. Who was the witness? What  
21          relationship do they have to the case or to the  
22          other witnesses or the parties? Did the witness  
23          have any bias, reason or motive to give false or  
24          shaded testimony? If so, you may consider that  
25          bias or motive in your deliberations and ultimately

1 as to whether or not it impacts the credibility of  
2 the witness and the assessment of the evidence  
3 presented.

4 Is the witness someone likely to give an  
5 honest and impartial account? Consider not just  
6 whether the witness was honest but also whether the  
7 witness's testimony was accurate and reliable or  
8 honestly mistaken.

9 A prior statement by a witness, if  
10 inconsistent with his or her trial testimony in any  
11 way, may be considered on the witness's credibility  
12 and reliability and only for that purpose.

13 Now, you've heard some evidence suggesting  
14 that the Commonwealth did not conduct certain  
15 scientific tests or otherwise follow standard  
16 procedure during the police investigation. This is  
17 a factor you may consider in evaluating the  
18 evidence presented in this case.

19 With respect to this factor, you should  
20 consider three questions: First, whether the  
21 omitted tests or other actions were standard  
22 procedure or steps that would otherwise normally be  
23 taken under the circumstances; second, whether  
24 omitted tests or actions could reasonably have been  
25 expected to lead to significant evidence of the

1 defendant's guilt or innocence; and, third, whether  
2 the evidence provides a reasonable and adequate  
3 explanation for the omission of the tests or other  
4 actions.

5 If you find that any omissions in the  
6 investigation were significant and not adequately  
7 explained, you may consider whether the omissions  
8 tend to affect the quality, reliability or  
9 credibility of the evidence presented by the  
10 Commonwealth.

11 All of these considerations involve factual  
12 determinations that are entirely up to you, and you  
13 are free to give this matter whatever weight, if  
14 any, you deem appropriate based on all the  
15 circumstances.

16 Now, during the trial, I gave you some  
17 limiting instructions on how you were to consider  
18 some of the evidence you heard and, importantly,  
19 how you were not to consider the evidence. I am  
20 going to summarize those limiting instructions  
21 here.

22 Ms. Read is not charged with committing any  
23 crime other than the charges contained in the  
24 indictments. You have heard evidence about  
25 interactions that Ms. Read had with Mr. O'Keefe and

1 other witnesses in Aruba. The evidence was  
2 admitted solely for your consideration as evidence  
3 of the nature of the defendant's relationship with  
4 Mr. O'Keefe and whether it goes to her knowledge or  
5 intent or motive on January 29th, 2022.

6 You may not consider that evidence as proof  
7 that she has a criminal personality or bad  
8 character. You may not take the defendant's prior  
9 acts as a substitute for proof that the defendant  
10 committed the crimes charged here or to conclude  
11 that if she committed the acts in Aruba, she must  
12 also have committed the offenses with which she is  
13 charged here. You can only use the evidence for  
14 the limited purpose of how it goes to the  
15 defendant's state of mind, motive and nature of her  
16 relationship with John O'Keefe.

17 Before you consider any electronic  
18 communication in your deliberations, you must  
19 first find that it is more likely true than not  
20 that the persons who authored them were, in fact,  
21 John O'Keefe, the defendant, or the witnesses who  
22 testified about their communication with John  
23 O'Keefe and/or the defendant.

24 If you do not find that it is more likely true  
25 than not that John O'Keefe, Karen Read or the



1 witnesses who testified here before you were the  
2 person who authored or transmitted the electronic  
3 communications, then you may not consider the  
4 electronic communications in deciding the case.

5 Now, the Commonwealth has introduced  
6 photographs into evidence. The photographs may be  
7 graphic and unpleasant. As I told you when you  
8 first saw them, your verdict must not in any way be  
9 influenced by the fact that these photographs may  
10 be graphic or unpleasant. The defendant is  
11 entitled to a verdict based solely on the evidence  
12 and not one based on pity or sympathy. Consider a  
13 photograph only as it may show a medical condition,  
14 the nature of the injuries or the details of the  
15 incident, itself.

16 You've heard evidence of statements made by  
17 John O'Keefe. These statements were admitted only  
18 for a limited purpose of establishing John  
19 O'Keefe's state of mind. You are not to consider  
20 this testimony as proof that the defendant has bad  
21 character or propensity to commit crimes.

22 The testimony of witnesses recounting  
23 conversations with Mr. O'Keefe or messages the  
24 defendant's cell phone received from him can only  
25 be used as they go to the defendant's motive or

1 intent on January 29th and only if you find that  
2 the defendant was aware of John O'Keefe's state of  
3 mind at the time of the crime and would be likely  
4 to respond to it.

5 There need not be direct evidence that the  
6 defendant learned of Mr. O'Keefe's state of mind so  
7 long as you reasonably can infer from the evidence  
8 that she did learn of it.

9 You also heard testimony about statements  
10 allegedly made by Ms. Read. Before you may  
11 consider any such statement, you are going to have  
12 to make a preliminary determination whether it can  
13 be considered as evidence or not and for what  
14 purpose it may be used.

15 You may not consider any such statement in  
16 your deliberations for the truth of any such  
17 statement unless from all the evidence in the case  
18 the Commonwealth has proven beyond a reasonable  
19 doubt that the defendant made the statement that  
20 she is alleged to have made and that she made it  
21 voluntarily, freely and rationally.

22 In determining whether or not any statement  
23 made by the defendant was voluntary, you may  
24 consider all of the surrounding circumstances. You  
25 may consider any evidence that you have heard about

1 the defendant's physical and mental condition, her  
2 intelligence, age, education and experience. Your  
3 decision does not turn on any one factor. You must  
4 consider the totality of the circumstances.

5 Some testimony came from witnesses who saw or  
6 heard something. Some witnesses also told you  
7 about opinions or conclusions they reached based on  
8 some special training or experience. But special  
9 training or experience does not necessarily make  
10 the witness's testimony any more believable or  
11 important than any other evidence.

12 So you should consider the same questions  
13 about witness testimony that I mentioned early,  
14 including any bias or motive these opinion  
15 witnesses may have had to testify in a certain way.

16 You may also consider the witness's level of  
17 experience and training and whether they base their  
18 opinions on the facts that you find to be true.  
19 There were hypothetical questions asked of some of  
20 these witnesses. You may give whatever weight you  
21 deem appropriate to the opinion based on the  
22 hypothetical but only if after careful  
23 consideration you find that all the assumed facts  
24 are true.

25 Remember that witnesses, even those with

1 special training or experience, do not decide  
2 cases. Juries do. It is up to you whether to  
3 accept or reject in whole or in part any opinion or  
4 conclusion that a witness offered during the trial.

5 Now, you have the same powers with respect to  
6 the exhibits that you have and the testimony of the  
7 witnesses. Look them over and decide the weight,  
8 that is, the value they deserve to receive, in  
9 helping you resolve the case as you make your  
10 ultimate judgment about whether the Commonwealth  
11 has proved its case beyond a reasonable doubt.

12 You do not have to believe something simply  
13 because it is written on a piece of paper or  
14 appears in a photograph. You are not, of course,  
15 required to disbelieve it because it appears there.  
16 You decide whether to believe what the exhibit  
17 purports to show and how much weight, if any, you  
18 give each exhibit.

19 Now, you've heard me talk about the sources of  
20 evidence in this case. Those are the tools that we  
21 have to decide the case. Now, with the evidence in  
22 mind, what can you do with it?

23 As jurors, you may bring to bear all your  
24 knowledge and experience. You don't check your  
25 common sense at the door to the jury room; just the

1 reverse. I instruct you to use your common sense.  
2 Give the evidence a reasonable and fair  
3 construction in light of your common knowledge and  
4 experience.

5 In determining the facts in this case, you may  
6 draw reasonable inferences from the evidence that  
7 you believe because you are entitled to rely upon  
8 both direct and indirect or circumstantial  
9 evidence.

10 Direct evidence is evidence of what a witness  
11 claims to have seen or heard or touched or somehow  
12 perceived with their own senses. Circumstantial  
13 evidence exists where a witness does not testify  
14 directly to the fact that it sought to be proven  
15 but you are provided with evidence of other facts  
16 and then asked to draw reasonable inferences from  
17 them about the fact that is sought to be proved.  
18 Such inferences may be considered with all of the  
19 other evidence in reaching your verdict.  
20 Circumstantial evidence is competent to establish  
21 guilt beyond a reasonable doubt.

22 Now, what do I mean by an inference? An  
23 inference is a logical deduction or conclusion that  
24 you may but are not required to draw from evidence  
25 that you have accepted as believable.

1           Inferences are little steps in reasoning,  
2           steps in which you take some known information,  
3           apply your experience in life to it and then draw a  
4           conclusion. Sometimes you can draw more than one  
5           inference. You have to decide which inferences are  
6           reasonable and decide which seems more reasonable  
7           to you.

8           Remember, when you are dealing with  
9           inferences, you never have to infer anything. You  
10          may but do not have to draw any inferences  
11          whatsoever. An inference drawn from circumstantial  
12          evidence need not be necessary or inescapable, but  
13          any inference which you do draw must be reasonable  
14          and possible. It must be logical. It must be a  
15          natural one which is not too remote in the ordinary  
16          course of events. You may not guess. You may not  
17          speculate. You may not engage in surmise.

18          You should not pile inference upon inference  
19          until the pile gets so high that it tips over  
20          logically or the chain gets so weak that it doesn't  
21          hold together anymore. When you run through your  
22          inferences, check the starting point and the ending  
23          point to make sure that they are still reasonable.

24          Further, when the evidence tends equally to  
25          give rise to either of two inconsistent

1       propositions, the Commonwealth has established  
2       neither proposition. In order to convict the  
3       defendant, you must find that all the evidence and  
4       the reasonable inferences that you have drawn,  
5       taken together, prove that she is guilty beyond a  
6       reasonable doubt.

7             Let me give you an example of an inference.  
8       Suppose that the issue that you must decide is  
9       whether the U.S. Postal Service delivered the mail  
10      today. If you go home and someone in your  
11      household, a child, roommate or spouse, hands you  
12      the mail and states that he or she observed the  
13      letter carrier deliver the mail and retrieved it  
14      from the mailbox, this would be direct evidence  
15      that the U.S. Postal Service delivered the mail,  
16      the witness perceived the event with his or her own  
17      senses and told you what he or she observed. The  
18      issue you would have to decide is whether the  
19      witness is credible.

20            On the other hand, if you go home from court  
21      and find mail in the mailbox, you may infer that it  
22      was delivered by the U.S. Postal Service today.  
23      You draw this reasonable inference based on the  
24      following known facts: The mailbox was emptied  
25      yesterday. You know that the mail is delivered by

1 the U.S. Postal Service Monday through Saturday.

2 The letters in the box are postmarked.

3 You have exactly the same power in this case,  
4 not the power to speculate or to guess but the  
5 power to draw reasonable inferences warranted by  
6 the evidence in the fashion I have just described.

7 You may have noticed that the defendant did  
8 not testify at this trial. The defendant has an  
9 absolute right not to testify since the entire  
10 burden of proof in this case is on the Commonwealth  
11 to prove that the defendant is guilty. It is not  
12 up to the defendant to prove that she is innocent.

13 The fact that the defendant did not testify  
14 has nothing to do with the question of whether she  
15 is guilty or not guilty. You are not to draw any  
16 adverse inference against the defendant because she  
17 did not testify. You are not to consider it in any  
18 way or even discuss it in your deliberations. You  
19 must determine whether the Commonwealth has proved  
20 its case against the defendant based solely on the  
21 testimony of the witnesses and the exhibits.

22 That completes my first part of the  
23 instructions. Now I'm going to turn to the  
24 elements of the charges against Ms. Read.

25 The Commonwealth has alleged that on January



1 29th, 2022, Ms. Read did assault and beat John  
2 O'Keefe with the intent to murder him and by such  
3 assault and battery did kill and murder John  
4 O'Keefe. Ms. Read is charged with second degree  
5 murder.

6 In order to prove murder in the second degree,  
7 the Commonwealth must prove the following elements:  
8 First, the defendant caused the death of John  
9 O'Keefe; two, the defendant intended to kill John  
10 O'Keefe or intended to cause grievous bodily harm  
11 to John O'Keefe or intended to do an act which, in  
12 the circumstances known to the defendant, a  
13 reasonable person would have known created a plain  
14 and strong likelihood that death would result. I  
15 will now discuss each of these requirements in more  
16 detail.

17 The first element is that the defendant caused  
18 the death of John O'Keefe. A defendant's act is  
19 the cause of death where the act is a natural and  
20 continuous sequence, results in death and without  
21 which death would not have occurred.

22 The second element is that the defendant  
23 intended to kill John O'Keefe or intended to cause  
24 grievous bodily harm to John O'Keefe or intended to  
25 do an act which, in the circumstances known to the

1 defendant, a reasonable person would have known  
2 created a plain and strong likelihood that death  
3 would result.

4 As you can see, the second element has three  
5 subparts which I will call prongs, and the  
6 Commonwealth satisfies its burden of proof if it  
7 proves any one of the three prongs beyond a  
8 reasonable doubt.

9 The first prong is that the defendant intended  
10 to kill John O'Keefe. This means that the  
11 defendant consciously and purposefully intended to  
12 cause John O'Keefe's death.

13 The second prong is that the defendant  
14 intended to cause grievous bodily harm to John  
15 O'Keefe. Grievous bodily harm means severe injury  
16 to the body.

17 The third prong is that the defendant intended  
18 to do an act which, in the circumstances known to  
19 the defendant, a reasonable person would have known  
20 created a plain and strong likelihood that death  
21 would result. Let me help you understand how to  
22 analyze this third prong.

23 You must first determine whether the defendant  
24 intended to perform the act that caused the  
25 victim's death. If you find that she intended to

1 perform the act, you must then determine what the  
2 defendant, herself, actually knew about the  
3 relevant circumstances at the time she acted.

4 Then you must determine whether under the  
5 circumstances known to the defendant a reasonable  
6 person would have known that the act intended by  
7 the defendant created a plain and strong likelihood  
8 that death would result.

9 If you have a reasonable doubt as to whether  
10 Mr. O'Keefe's death was accidental because the  
11 defendant -- I'm sorry -- because the death was  
12 caused by a negligent, careless or mistaken act of  
13 the defendant or resulted in a cause separate from  
14 the defendant's conduct, you may not find that the  
15 Commonwealth has proved that the defendant intended  
16 to kill, intended to cause grievous bodily harm or  
17 intended to do an act which, in the circumstances  
18 known to the defendant, a reasonable person would  
19 have known created a plain and strong likelihood  
20 that death would result.

21 In deciding whether the defendant intended to  
22 kill, intended to cause grievous bodily harm or  
23 intended to do an act which, in the circumstances  
24 known to the defendant, a reasonable person would  
25 have known created a plain and strong likelihood

1       that death would result, you may consider any  
2       credible evidence that the defendant was affected  
3       by her consumption of alcohol.

4             If the Commonwealth has proven both elements  
5       beyond a reasonable doubt, you should return a  
6       verdict of guilty. If the Commonwealth has failed  
7       to prove one or more of those elements beyond a  
8       reasonable doubt, you must return a verdict of not  
9       guilty.

10            The next is manslaughter while operating a  
11       motor vehicle under the influence of liquor. In  
12       order to prove manslaughter while operating a motor  
13       vehicle, the Commonwealth must prove the following  
14       five elements: First, that the defendant operated  
15       a motor vehicle; second, that she operated the  
16       motor vehicle upon a public way or in a place in  
17       which the public has a right of access; third, that  
18       while the defendant was operating the motor  
19       vehicle, she was under the influence of  
20       intoxicating liquor and/or the percent of alcohol  
21       in the defendant's blood was a .08 or greater; --  
22       you will have both of these choices on your verdict  
23       slip -- fourth, that the defendant operated the  
24       vehicle wantonly or recklessly so as to create a  
25       high degree of likelihood that substantial harm

1 will result to another; and, fifth, that by such  
2 operation of the motor vehicle, the defendant  
3 caused the death of John O'Keefe.

4 So to prove the first element, the  
5 Commonwealth must prove beyond a reasonable doubt  
6 that the defendant was operating a motor vehicle.  
7 A person operates a motor vehicle while doing all  
8 of the well-known things that drivers do as they  
9 travel on a street or highway and also in doing any  
10 act which directly tends to set the vehicle in  
11 motion.

12 A person is operating a motor vehicle whenever  
13 they are in the vehicle and intentionally  
14 manipulates some mechanical or electrical part of  
15 the vehicle like the gearshift or the ignition  
16 which, alone or in sequence, will set the vehicle  
17 in motion.

18 To prove the second element, the Commonwealth  
19 must prove beyond a reasonable doubt that the  
20 defendant operated a motor vehicle in a public way.  
21 Any street or highway that is open to the public  
22 and is controlled and maintained by some level of  
23 government is a public way. This would include,  
24 for example, interstate and state highways as well  
25 as municipal streets and roads.

1           In determining whether any particular street  
2           or road is a public way, you may consider evidence,  
3           if any, about whether it has some of the usual  
4           indications of a public way. For example, whether  
5           it is paved, whether it has streetlights, street  
6           signs, curbing and fire hydrants, whether there are  
7           buildings along the street, whether it has any  
8           crossroads intersecting it and whether it is  
9           publicly maintained.

10           To prove the third element, the Commonwealth  
11           must prove beyond a reasonable doubt that while  
12           operating a motor vehicle, the defendant was under  
13           the influence of intoxicating liquor, that is,  
14           alcohol, and/or the percent of alcohol in the  
15           defendant's blood was a .08 or greater. I will now  
16           instruct you on both theories.

17           What does it mean to be under the influence of  
18           alcohol? It is not illegal to drive after  
19           consuming alcohol as long as the operator is not  
20           under the influence of alcohol. However, neither  
21           does someone have to be drunk to be under the  
22           influence of alcohol.

23           A person is under the influence of alcohol if  
24           they have consumed enough alcohol to reduce their  
25           ability to operate a motor vehicle safely by

1 decreasing their judgment, alertness and ability to  
2 respond promptly and effectively to unexpected  
3 emergencies. The amount of alcohol necessary to do  
4 this may vary from person to person.

5 The Commonwealth is not required to prove that  
6 the defendant actually drove in an unsafe or  
7 erratic manner, but it is required to prove that  
8 their ability to drive safely was diminished by  
9 alcohol. You may rely on your experience and  
10 common sense about the effects of alcohol. You  
11 should consider any believable evidence about the  
12 defendant's alleged consumption of alcohol as well  
13 as the defendant's appearance, condition and  
14 behavior.

15 In deciding this first theory of whether the  
16 defendant operated a motor vehicle under the  
17 influence of alcohol, you may also consider whether  
18 a blood test showed that the defendant had consumed  
19 any alcohol. However, no matter what the reading  
20 is, the blood test is not sufficient, itself, to  
21 prove that the defendant was under the influence of  
22 alcohol.

23 Now, under the second theory -- and, again,  
24 both will be on the verdict slip and you should  
25 decide each one -- the Commonwealth must prove

1 beyond a reasonable doubt that at the time of  
2 operation, the percent of alcohol in the  
3 defendant's blood was a .08 or greater. The  
4 Commonwealth may prove a person's blood alcohol  
5 level by a chemical test or analysis of their  
6 breath or blood.

7 In deciding whether the Commonwealth has  
8 proved the defendant's blood alcohol beyond a  
9 reasonable doubt, you may consider evidence, if  
10 any, about whether the test was administered within  
11 a reasonable time of operation of the motor  
12 vehicle, whether the person who administered the  
13 test was properly certified, whether and how the  
14 pre-test procedures were followed and employed;  
15 whether the testing device was working properly at  
16 the time the test was administered; and whether the  
17 test was administered properly. You may also  
18 consider any other evidence pertaining to the test.

19 Mr. Court Officer? I know it's traditional to  
20 not allow anybody in and out of the courtroom while  
21 I'm charging. So I'm going to ask you to follow  
22 that at this point. Thank you. It's distracting,  
23 and I don't want it to be distracting for you  
24 folks. Okay?

25 The fourth element that the Commonwealth must



1 prove beyond a reasonable doubt is that the  
2 defendant operated the vehicle wantonly or  
3 recklessly. A person drives recklessly when they  
4 ignore the fact that their manner of driving is  
5 very likely to result in death or serious injury to  
6 someone or they are indifferent to whether someone  
7 is killed or seriously injured. It is not enough  
8 for the Commonwealth to prove that the defendant  
9 acted negligently; that is, acted in a way that a  
10 reasonably careful person would not. It must be  
11 shown that the defendant's actions went beyond mere  
12 negligence and amounted to recklessness.

13 The defendant was reckless if she knew or  
14 should have known that such actions would pose a  
15 grave danger or death or serious injury to others  
16 but chose, nevertheless, to run the risk and go  
17 ahead.

18 Whenever I refer to the defendant's state of  
19 mind or her intent, you may consider any credible  
20 evidence that the defendant was affected by her  
21 consumption of alcohol. A defendant may have the  
22 requisite state of mind or intent even if she  
23 consumed alcohol, but you may consider such  
24 evidence in determining whether the Commonwealth  
25 has proved beyond that.

1           Here, the defendant must have intended her  
2           acts in the sense that they were not accidental.  
3           But it is not necessary that the defendant intended  
4           or foresaw the consequences of those acts as long  
5           as a reasonable person would know that they were so  
6           dangerous that death or serious injury would  
7           probably result.

8           As such, the Commonwealth does not need to  
9           prove that the defendant intended to kill John  
10          O'Keefe; rather, this is in the category of cases  
11          where public safety requires each driver, once they  
12          know what the situation is, to determine and to  
13          adhere to an objective standard of behavior.

14          In determining whether the defendant drove  
15          recklessly, you should take into account all the  
16          facts of the situation: the defendant's rate of  
17          speed and manner of operation, the defendant's  
18          physical condition and how well the defendant could  
19          see and control the vehicle, the condition of the  
20          defendant's vehicle, what kind of road it was and  
21          who else was on the road, what was the time of day,  
22          what the weather and the condition on the roads  
23          were and what any other vehicles or pedestrians  
24          were doing and any other factors, including the  
25          defendant's consumption of alcohol that you think

1 are relevant.

2 The fifth element that the Commonwealth must  
3 prove beyond a reasonable doubt is that the  
4 defendant, by her actions, caused the death of  
5 John O'Keefe. The defendant caused the death if  
6 her actions directly and substantially set in  
7 motion the entire chain of events that produced the  
8 death. A defendant's act is the cause of death  
9 where the act, in a natural and continuous  
10 sequence, results in death and without which death  
11 would not have occurred.

12 If the Commonwealth has proven all five  
13 elements beyond a reasonable doubt, you shall  
14 return a verdict of guilty. If the Commonwealth  
15 has failed to prove one or more of these elements  
16 beyond a reasonable doubt, you must return a  
17 verdict of not guilty.

18 Now, the lesser offense of manslaughter while  
19 operating a motor vehicle under the influence of  
20 liquor includes the lesser offense of involuntary  
21 manslaughter. As a matter of law, the indictment  
22 that is before you which charges the defendant with  
23 manslaughter while operating a motor vehicle under  
24 the influence of liquor also charges her with the  
25 lesser included offense.

1           The Commonwealth may prove the lesser included  
2 charge of involuntary manslaughter even if it fails  
3 to prove the greater charge of manslaughter while  
4 operating a motor vehicle under the influence of  
5 liquor. So I will define involuntary manslaughter.

6           To prove that the defendant is guilty of  
7 involuntary manslaughter because of wanton or  
8 reckless conduct, the Commonwealth must prove the  
9 following elements beyond a reasonable doubt:  
10 First, that the defendant caused John O'Keefe's  
11 death; second, that the defendant intended the  
12 conduct that caused John O'Keefe's death; third,  
13 that the defendant's conduct was wanton or  
14 reckless. I will now discuss each element in more  
15 detail.

16           The first element is that the defendant caused  
17 the death of John O'Keefe. Remember, Ms. Read  
18 caused John O'Keefe's death if her actions directly  
19 and substantially set in motion the entire chain of  
20 events that produced the death. A defendant's act  
21 is the cause of death where the act, in a natural  
22 and continuous sequence, results in death and  
23 without which death would not have occurred.

24           The second element is that the defendant  
25 intended the conduct that caused the death. The

1 Commonwealth is not required to prove the defendant  
2 intended to cause the death. You may consider any  
3 credible evidence that the defendant was affected  
4 by her consumption of alcohol.

5 The third element is that the defendant's  
6 conduct was wanton or reckless. Wanton or reckless  
7 conduct is conduct that creates a high degree of  
8 likelihood that substantial harm will result to  
9 another. It is conduct involving a grave risk of  
10 harm to another person that a person undertakes  
11 within indifference or with disregard of the  
12 consequences of such conduct. Whether the conduct  
13 is wanton or reckless depends either on what the  
14 defendant knew or how a reasonable person would  
15 have acted knowing what the defendant knew.

16 If the defendant realized the grave risk  
17 created by her conduct, her subsequent act amounts  
18 to wanton or reckless conduct whether or not a  
19 reasonable person would have realized the risk of  
20 grave danger. Even if the defendant, herself, did  
21 not realize the grave risk of harm to another, the  
22 act would constitute wanton or reckless conduct if  
23 a reasonable person, knowing what the defendant  
24 knew, would have realized the act posed a risk of  
25 grave danger to another.

1           It is not enough for the Commonwealth to prove  
2           the defendant acted negligently; that is, in a  
3           manner that a reasonably careful person would not  
4           have acted. The Commonwealth must prove that the  
5           defendant's actions went beyond negligence and  
6           amounted to wanton or reckless conduct as I have  
7           defined it.

8           In deciding whether the defendant knew or  
9           should have known her conduct created a high degree  
10          of likelihood that substantial harm would result to  
11          another, you may consider credible evidence that  
12          the defendant was affected by her consumption of  
13          alcohol.

14          A defendant may have the requisite knowledge  
15          even if she consumed alcohol, but you may consider  
16          such evidence in determining whether the  
17          Commonwealth has proved this element.

18          Now, the offense of manslaughter while  
19          operating a motor vehicle under the influence of  
20          liquor also includes the lesser offense of motor  
21          vehicle homicide, felony OUI liquor and negligence.  
22          As a matter of law, the indictment that is before  
23          you which charges the defendant with manslaughter  
24          while operating a motor vehicle under the influence  
25          of liquor also charges her with the lesser included

1 offense.

2 The Commonwealth may prove the lesser included  
3 charge of motor vehicle homicide even if it fails  
4 to prove the greater charge of manslaughter while  
5 operating a motor vehicle under the influence of  
6 liquor.

7 You may find the defendant guilty of motor  
8 vehicle homicide only if you are not convinced  
9 beyond a reasonable doubt that the defendant is  
10 guilty of manslaughter and you are convinced beyond  
11 a reasonable doubt that the defendant is guilty of  
12 motor vehicle homicide. So I will define that for  
13 you now.

14 In order to prove the defendant guilty of  
15 motor vehicle homicide, the Commonwealth must prove  
16 the following five elements beyond a reasonable  
17 doubt: First, that the defendant operated a motor  
18 vehicle; second, that she operated the motor  
19 vehicle upon a public way or in a place in which  
20 the public has a right of access; third, that while  
21 the defendant was operating the motor vehicle, she  
22 was under the influence of intoxicating liquor  
23 and/or the percent of alcohol in the defendant's  
24 blood was .08 or greater; fourth, that while  
25 operating a motor vehicle, the defendant did so in

1 a negligent manner so that the lives or safety of  
2 the public might be in danger; fifth, that by such  
3 operation of the motor vehicle, the defendant  
4 caused the death of John O'Keefe.

5 Elements 1, 2, 3 and 5 are the same as  
6 manslaughter while under the influence of alcohol  
7 as I've previously instructed you just moments ago.  
8 The difference between manslaughter while operating  
9 under the influence and motor vehicle homicide is  
10 the fourth element.

11 To prove the fourth element of motor vehicle  
12 homicide, the Commonwealth must prove beyond a  
13 reasonable doubt that the defendant drove  
14 negligently in a manner that might have endangered  
15 the lives or safety of other people. A person  
16 acts negligently when she fails to use due care;  
17 that is, when they act in a way that a reasonable  
18 person would not act. This can happen either by  
19 doing something that a reasonable person would not  
20 do under the circumstances or by failing to do  
21 something that a reasonable person would do.

22 The defendant acted negligently if she drove  
23 in a way that a reasonable person would not have  
24 and by doing so created an unnecessary danger to  
25 other people, a danger that she could have avoided



1 by driving more carefully.

2 The defendant's intent does not matter. So do  
3 not consider it in determining whether or not the  
4 defendant was negligent.

5 There is no requirement that the Commonwealth  
6 show that the defendant intended to act negligently  
7 or unlawfully. Under our laws, public safety  
8 requires each driver to determine and to adhere to  
9 an objective standard of reasonable behavior.

10 Therefore, what the defendant may or may not  
11 have intended to result from her actions is  
12 irrelevant. The issue is whether or not she drove  
13 as a reasonable person would have under the  
14 circumstances.

15 In determining whether the defendant drove  
16 negligently in a manner that might have endangered  
17 the lives or safety of other people, you should  
18 take into account evidence, if any, about the  
19 defendant's rate of speed and manner of operation,  
20 the defendant's physical condition and how well she  
21 could see and control her vehicle, the condition of  
22 the defendant's vehicle, the kind of road it was  
23 and who else was on the road, the time of day, the  
24 weather and the road conditions, what any other  
25 vehicles or pedestrians were doing and any other

1 factors, including the defendant's consumption of  
2 alcohol, that you think are relevant.

3 The next indictment is leaving the scene of an  
4 accident, resulting in death. In order to prove  
5 the defendant guilty of leaving the scene of an  
6 accident resulting in death, the Commonwealth must  
7 prove six things beyond a reasonable doubt: First,  
8 that the defendant operated a motor vehicle;  
9 second, that she operated on a public way or in a  
10 place in which the public has a right of access;  
11 third, that the defendant knowingly collided with  
12 John O'Keefe; fourth, that the collision caused  
13 injury to John O'Keefe, resulting in his death; and  
14 fifth, that after causing such injury, the  
15 defendant failed to stop and provide name, home  
16 address and registration number of the motor  
17 vehicle; and, six, that the defendant failed to do  
18 so for the purpose of avoiding prosecution or  
19 apprehension.

20 Jurors, I've already instructed you on the  
21 first and second elements. The other four elements  
22 should be given their plain meaning, and the  
23 parties agree that I do not need to define them any  
24 further. That will save a little time for you.

25 As a general rule, you are permitted but not

1 required to infer that a person who intentionally  
2 uses a dangerous weapon on another person intends  
3 to kill that person or cause him grievous bodily  
4 harm or intends to do an act which, in the  
5 circumstances known to him, a reasonable person  
6 would know creates a plain and strong likelihood  
7 that death would result.

8 An item that is normally used for innocent  
9 purposes can become a dangerous weapon if it is  
10 used in a dangerous or a potentially dangerous  
11 fashion. The law considers an item, in this case,  
12 a motor vehicle, to be used in a dangerous fashion  
13 if it is used in a way that it reasonably appears  
14 to be capable of causing serious injury or death to  
15 another person.

16 In deciding whether an item was used as a  
17 dangerous weapon, you may consider the  
18 circumstances surrounding the alleged crime, the  
19 nature, size and shape of the item and the manner  
20 in which it was handled or controlled.

21 Now, that completes the second part of my  
22 instructions. I will now turn to the final  
23 instructions.

24 In order for a jury to return a verdict, that  
25 is, to reach a decision in a criminal case, the law

1 provides that there may only be 12 persons on the  
2 deliberating jury, and you will note that there are  
3 still 14 of you.

4 To avoid the need for a new trial if one or  
5 more jurors becomes ill or has to be excused for  
6 some good reason, we customarily impanel extra  
7 jurors at the beginning of a trial as we did in  
8 this case. However, when you begin your  
9 deliberations, the law of Massachusetts is that  
10 there can only be 12 jurors.

11 Therefore, at the conclusion of my  
12 instructions, the clerk will reduce your number to  
13 12 on a random basis. The jurors not selected to  
14 serve on the jury will become the alternate jurors.

15 If you are selected as an alternate juror,  
16 please do not feel that your efforts in this case  
17 have been wasted because, as I've indicated, it is  
18 important that we have extra jurors in the case of  
19 an emergency. If we did not impanel extra jurors  
20 and a juror became ill or for some other reason had  
21 to be excused, we would have to try the case all  
22 over again with a new jury.

23 In the event that a juror has to be excused  
24 once the jury starts deliberating, then an  
25 alternate juror will be chosen to take that juror's

1 position and the jury will be required to start  
2 their deliberations all over again from the very  
3 beginning.

4 Therefore, it is important that the alternates  
5 not discuss the case with anyone, including each  
6 other, for if an alternate becomes a member of the  
7 jury for deliberations, the alternates' views  
8 should be his or her own and not influenced by  
9 anyone else.

10 Now, different states and jurisdictions use  
11 different means to select a foreperson of the jury.  
12 In some jurisdictions, the jurors select their own  
13 foreperson. In Massachusetts, the judge is  
14 responsible for selecting a foreperson. A  
15 foreperson of a jury has been described as the  
16 first among equals. He or she is responsible for  
17 organizing the deliberations, communicating with  
18 the Court if necessary during deliberations and  
19 presenting the verdict following your  
20 deliberations. The foreperson has no greater say  
21 or vote in the jury's deliberations. However, in  
22 that sense, he's exactly equal with all of the  
23 jurors.

24 I am going to ask the juror in Seat No. 1,  
25 Juror No. 400, would you be our foreperson, please,

1           sir?

2           THE JUROR: I will.

3           THE COURT: Thank you. When you return to the  
4 jury room to deliberate, the court officers will  
5 deliver to you all of the exhibits in this case as  
6 well as the verdict slips that you will use in  
7 returning your verdict. Your foreperson will be  
8 given verdict slips setting forth the charges  
9 against the defendant. Twelve jurors must agree  
10 before you have a decision as to any charge. That  
11 means that to find the defendant guilty, all 12  
12 must agree. To find the defendant not guilty, all  
13 12 must agree. You should continue deliberating  
14 until you have reached a final verdict on each  
15 charge. You should not begin deliberating until  
16 all 12 jurors are together in the jury room and  
17 should cease deliberating if any one juror is not  
18 present in the jury room.

19           It is important that you not communicate with  
20 anyone outside the jury room about the  
21 deliberations or about anything concerning this  
22 case. Further, I instruct you that no juror is  
23 better qualified to determine the truth of the  
24 facts in dispute or to deliberate on a verdict  
25 solely because of education, background or

1 experience.

2 The parties and I have chosen each of you as  
3 fair and impartial jurors and your voices have  
4 equal weight. To reach a unanimous verdict, each  
5 juror must agree. Jurors have a duty to consult  
6 with one another and to deliberate with a view to  
7 reaching an agreement if it can be done without  
8 violence to individual judgment. At the same time,  
9 each juror must decide the case for himself or  
10 herself but only after impartially considering the  
11 evidence with his or her fellow jurors. Don't  
12 hesitate to re-examine your views and change your  
13 opinion if convinced it is wrong, but no juror  
14 should surrender an honest conviction to the  
15 opinion of fellow jurors simply for the purpose of  
16 returning a verdict.

17 Although how you conduct your deliberations is  
18 up to you, I urge you not to begin conducting an  
19 immediate straw vote; rather, I encourage you not  
20 to take any votes until you have completed a  
21 careful and thorough collective view of all of the  
22 evidence.

23 At this point, I want to remind you of an  
24 important issue that I raised with you at the  
25 beginning of this trial. I told you that our

1 system of justice depends on judges like me and  
2 jurors like you being able and willing to make  
3 careful and fair decisions. All people deserve  
4 fair and equal treatment in our system of justice,  
5 regardless of their race, national origin,  
6 religion, age, ability, gender, sexual orientation,  
7 education, income level or any other personal  
8 characteristic.

9 I also pointed out that we all have our own  
10 built-in expectations and assumptions, even if we  
11 are not consciously aware of them, and I talked  
12 about some of the ways we can try to deal with  
13 them.

14 First, slow down. Do not rush to a decision.  
15 Hasty decisions are the most likely to reflect  
16 stereotypes or hidden biases. Take time to  
17 consider all of the evidence.

18 Second, as you start to draw conclusions,  
19 consider what evidence, if any, supports the  
20 conclusions you are drawing and whether any  
21 evidence casts doubt on those conclusions. Double-  
22 check whether you are actually using unsupported  
23 assumptions instead of the evidence.

24 Third, as you think about the people involved  
25 in this case, consider them as individuals rather



1           than as a member of a particular group.

2           Fourth, I might ask myself, would I view the  
3           evidence differently if the people were from  
4           different groups such as different racial, ethnic  
5           or gender identity groups?

6           Fifth, listen to your fellow jurors. They may  
7           have different points of view. If so, they may  
8           help you determine whether you are focusing on the  
9           facts or making assumptions perhaps based on  
10          stereotypes. Of course, your fellow jurors could  
11          be influenced by their own unstated assumptions.  
12          So don't be shy or hesitate to speak up.

13          You should participate actively, particularly  
14          if you think the other jurors are overlooking or  
15          undervaluing evidence you find important. In fact,  
16          when you explain your thoughts out loud to other  
17          jurors, you are also helping yourself to focus on  
18          the evidence instead of assumptions. If you use  
19          these strategies, you will do your part to reach a  
20          decision that is as fair as humanly possibly. That  
21          is your responsibility as jurors.

22          Now, during the course of your deliberations,  
23          you might have a question concerning the law in  
24          this case. I'm not suggesting that you will but  
25          you might. Perhaps I said something you did not

1 understand. If you have any questions, please feel  
2 free to bring them to my attention by writing a  
3 note dated and signed by the foreperson and sending  
4 it to me by way of the court officer.

5 Because your role as the jury is to determine  
6 the facts of the case, I cannot answer any  
7 questions you have concerning the facts of the  
8 case. I have no role in this case when it comes to  
9 deciding what the facts are, neither is it possible  
10 to provide you with a transcript of the testimony,  
11 even though we have had a phenomenal court reporter  
12 throughout this whole trial.

13 If you send a question to me, I will respond  
14 after consulting with the lawyers. Please do not  
15 ask a court officer or anyone else to answer any  
16 questions concerning anything material to the case.  
17 We will not answer a question or take a verdict  
18 between one and two. You will have lunch brought  
19 in to you and decide whether you want to stop your  
20 deliberations during lunch or deliberate.

21 At the end of the day if you're still  
22 deliberating, I'll send in a note asking if you  
23 want to continue deliberating or break for the day  
24 and return tomorrow morning. Don't tell anyone,  
25 including me, how the jury stands numerically or

1 otherwise on the questions before such time as you  
2 have reached a unanimous verdict.

3 You are going to notice shortly that the court  
4 officers are going to take an oath, and you will  
5 hear from that that they, too, as well as all other  
6 persons, are forbidden to communicate in any way or  
7 manner with any member of this jury on any subject  
8 touching on the merits of this case.

9 Remember that the decision of the jury must be  
10 unanimous and the foreperson should be certain that  
11 each member of the jury is in complete agreement  
12 with the verdict.

13 After the final vote of the jury, the  
14 foreperson should check the appropriate boxes as to  
15 each charge, then sign and date the verdict slips  
16 and notify the court officer that you have reached  
17 a unanimous verdict. You will then be brought back  
18 into the courtroom, where the foreperson will  
19 deliver the verdicts to the Court.

20 I am going to see counsel before we reduce  
21 your number to 12.

22 THE COURT: Mr. Yannetti, I need you up here.

23 MR. YANNETTI: Could I have just one second,  
24 Your Honor?

25 THE COURT: Okay.

1 (Whereupon, there was a sidebar conference as  
2 follows:)

3 THE COURT: All right. I'll hear you.

4 MR. JACKSON: I don't have an objection, per  
5 se. I just have a question.

6 THE COURT: I never get questions when I  
7 charge.

8 MR. JACKSON: And don't read anything into  
9 this. I'm just confused.

10 THE COURT: Okay.

11 MR. JACKSON: You gave the lesser included  
12 charge, one of which was involuntary manslaughter.  
13 And my only question, Your Honor, is -- I perhaps  
14 didn't hear it correctly, but was that the lesser  
15 included from the second degree or the second  
16 charge?

17 MR. LALLY: The second charge.

18 THE COURT: Yes. It's the OUI because the  
19 Commonwealth did not want -- for the second, it  
20 would have been a voluntary manslaughter, and the  
21 Commonwealth was not going forward on that.

22 MR. JACKSON: And that's how I heard it. I  
23 just wanted to make sure it was right. So there  
24 are two lesser included charges for the second  
25 charge.

1           THE COURT: Have you all looked at the verdict  
2 slips, because I want to make sure they have  
3 everything.

4           MR. JACKSON: I haven't. I have only seen the  
5 Commonwealth's proposal.

6           MR. YANNETTI: No. That was mine.

7           MR. JACKSON: Oh, it was yours?

8           MR. YANNETTI: Yes.

9           MR. JACKSON: All right. So do you see what  
10 I'm saying?

11          THE COURT: All right. The involuntary  
12 manslaughter does not go to the second degree.  
13 Okay.

14          You know what? Can we do the verdict slips  
15 after?

16          MR. JACKSON: Definitely. And, beyond that, I  
17 have no objections to the instructions.

18          THE COURT: Okay. Any objections from the  
19 Commonwealth on the charge?

20          MR. LALLY: No, Your Honor.

21          THE COURT: All right. So let's get the jury  
22 going. I'd like you all to spend some time with  
23 Mr. McDermott on the verdict slips before I look at  
24 them.

25          MR. JACKSON: Will do.

1 THE COURT: Okay.

2 (Whereupon, the sidebar conference concluded.)

3 THE CLERK: All right. So Mr. Clerk, will you  
4 choose the alternates, please?

5 THE CLERK: Would the juror sitting in Seat  
6 No. 3, who is Juror 79, step down and take your  
7 place as an alternate, and the juror sitting in  
8 Seat No. 2, Juror 14.

9 THE COURT: Ladies and gentlemen, we need to  
10 swear in the court officers. They are going to be  
11 in charge of you during your deliberations. I  
12 suggest that you listen to the oath that they are  
13 taking so that you can be aware of their  
14 responsibilities.

15 You can swear them, Mr. Clerk.

16 THE CLERK: Do you swear that you will keep  
17 this jury and alternates in a separate but  
18 convenient place until they agree, that they do not  
19 suffer any person to speak to them or speak to them  
20 yourselves or ask them if they have agreed, nor  
21 suffer them to disperse until they discharge their  
22 verdict except by order of the Court, so help you  
23 God?

24 THE COURT OFFICERS: So help me God (in  
25 unison).

1 THE CLERK: Thank you.

2 THE COURT: All right. So, jurors, I need not  
3 remind you that you have an important  
4 responsibility, but I believe that you will bring  
5 to bear all the wisdom and the judgment and  
6 conscience that you possess in reaching your  
7 verdict in this case. All that we can expect from  
8 you is that you decide the case with integrity and  
9 with principle.

10 We all expect you to reach an impartial  
11 verdict dictated by your logic without bias,  
12 without prejudice or sympathy, and not prompted by  
13 any facts except those that you have heard in here  
14 in the court during trial. We are looking for  
15 impartial judgment dictated by your reasoning in  
16 the fullest discharge of your oaths as jurors.

17 You may now retire and deliberate your  
18 verdict.

19 (Whereupon, the jury exits the courtroom to  
20 commence deliberations at 1:25 p.m.)

21 THE COURT: So, counsel, I'll give you a few  
22 minutes to work with Mr. McDermott on the verdict  
23 slip, and then I'll come back.

24 (Whereupon, there was a brief recess taken.)

25 (Court resumes.)

1 (Defendant present. Jury not present.)

2 THE CLERK: Back on the record in 22-117,  
3 Commonwealth versus Karen Read.

4 THE COURT: I don't have my charge, all the  
5 typos, finished yet. So I'll have to do that.  
6 It's in the process. It's almost done. So we'll  
7 get that back to the jury.

8 THE CLERK: Counsel, having looked at the  
9 verdict slips, are they acceptable?

10 MR. LALLY: The Commonwealth is content.

11 MR. YANNETTI: We are content.

12 THE COURT: All right. Just give me a minute.

13 MR. YANNETTI: I did have one question, Your  
14 Honor, when you are done looking.

15 THE COURT: Okay.

16 MR. YANNETTI: So in my entire career, Judge,  
17 I've never seen it done this way, but it was done  
18 this way in the last trial that I had before this  
19 one where it was a superior court case with lesser  
20 included charges. The clerk read off the offense  
21 as charged and asked the jury if it was guilty or  
22 not guilty. They came back not guilty. And I  
23 thought that charge was done. And then the clerk  
24 asked the jury is the defendant guilty or not  
25 guilty of the lesser included charge.



1           And so to get to the ultimate -- I can't even  
2           remember if that was one of the charges that she  
3           was convicted of. But my point is to get to the  
4           ultimate not guilty for that charge, we had to go  
5           through four separate charges. I imagine that's  
6           not the way it will be done here?

7           THE COURT: So I always told my clients  
8           forever, do not get either your hopes up or upset  
9           until you hear everything. This is a very long  
10          process.

11          MR. JACKSON: Of course.

12          THE COURT: So we will go through it the way  
13          Mr. McDermott always goes through it, starting from  
14          top to bottom, Jim?

15          THE CLERK: Yes.

16          THE COURT: Okay. So that is how it is going  
17          to be done.

18          MR. YANNETTI: So they are going to be asked  
19          with regard to each lesser included charge guilty  
20          or not guilty? That's my question.

21          THE COURT: It depends on what the answer is  
22          for the first one, right, Jim?

23          THE CLERK: Yes.

24          THE COURT: You don't get to the lesser  
25          included if it's a guilty on the first one, right?

1 MR. YANNETTI: True. But, if it's a not  
2 guilty, then they are going to be asked about the  
3 lesser includeds individually?

4 THE COURT: Yes.

5 MR. JACKSON: Okay. Then that raises the  
6 question on the verdict form, and maybe I'm missing  
7 something. Then shouldn't there be a guilty or not  
8 guilty for each of the lessers and they're  
9 instructed you don't even get to these --

10 THE CLERK: Yes. That's right.

11 MR. JACKSON: That's got to be on every one of  
12 them.

13 THE COURT: Yes. Yes.

14 MR. JACKSON: Okay.

15 THE COURT: I'm at a loss. I don't have my  
16 instructions. I was in the middle of typing them.  
17 I thought I was coming out for the exhibits. So  
18 yes, I agree.

19 MR. JACKSON: Okay.

20 THE COURT: Actually, Jim, do you have --

21 MR. JACKSON: I'm sorry, Your Honor?

22 THE CLERK: No. She is asking me.

23 MR. JACKSON: Oh. Sorry. Sorry.

24 THE COURT: What does the Commonwealth say?

25 MR. LALLY: On the verdict slips, Your Honor?

1 THE COURT: Yes, on the lesser includeds on  
2 Offense 2. It just says, not guilty, guilty of the  
3 offense charged and then guilty of the lesser  
4 included, guilty of the lesser included, without a  
5 not guilty option.

6 MR. LALLY: That's how it is. That's  
7 typically how I've seen it. But if that's what  
8 counsel is requesting, I don't have any issue with  
9 that.

10 THE COURT: Any objection, Mr. Lally, to  
11 putting a "not guilty" on that?

12 MR. LALLY: For each of the lesser includeds?

13 THE COURT: Yes.

14 MR. LALLY: No, Your Honor.

15 THE COURT: But it would have to follow --  
16 instead of it being not guilty first, it would have  
17 to be guilty or not guilty.

18 MR. LALLY: Correct. Yes.

19 THE COURT: So it would be reversed and it  
20 would draw attention to it?

21 THE CLERK: Three not guilties on one  
22 indictment?

23 THE COURT: Yes.

24 THE CLERK: They would check not guilty on all  
25 three times as opposed to just checking not guilty

1           once?

2           MR. JACKSON: That then leaves open the  
3           question for the subsequent, the subordinate lesser  
4           included.

5           THE CLERK: Not guilty is not guilty.

6           MR. JACKSON: No, it's not.

7           THE COURT: Of the first one. And then if  
8           they --

9           THE CLERK: Yes.

10          THE COURT: That's right.

11          MR. JACKSON: They have to find her not guilty  
12          of the superior charge to even get to the  
13          subordinate charges. And then they have to have a  
14          choice of guilty or not guilty on each of the  
15          subordinate charges. And my suggestion would be it  
16          has to be in the same order. In other words, not  
17          guilty comes first, then guilty as charged. Then  
18          the subordinate charge, not guilty of the  
19          subordinate and guilty of the subordinate.

20          THE COURT: All right. So let's hold the  
21          verdict slips. I'm sure you're all tired, but let  
22          me take a look at this. I've been trying to get my  
23          instructions ready. So let me take a look at this.

24          MR. YANNETTI: We are going to be around.  
25          We are going to go across the street and have

1 lunch, but we'll be here. And I have given my cell  
2 phone number to Mr. McDermott.

3 THE COURT: So we've got -- I'll see counsel  
4 at sidebar.

5 (Whereupon, there was a sidebar conference as  
6 follows:)

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8 Court Order: Jurors or Juror Issues  
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18 MR. LALLY: Thank you.

19 MR. JACKSON: Thank you.

20 (Whereupon, the sidebar conference concluded and a  
21 brief recess was taken.)

22 MR. JACKSON: Also, for the record, may we be  
23 excused until --

24 THE COURT: Not until we do whether the  
25 exhibits are in order.

1 THE CLERK: Counsel and I had a chance to go  
2 over the exhibits and they are ready to go to the  
3 jury.

4 MR. JACKSON: Yes. For the defense, I have.

5 MS. MC LAUGHLIN: Yes, Your Honor. For the  
6 Commonwealth, I've personally gone through all of  
7 the exhibit books, and I am content that all of the  
8 exhibits are there.

9 THE COURT: Okay. There was one that had not  
10 been redacted. Has that been done?

11 MR. YANNETTI: That particular exhibit needs  
12 to go back into the book. It's already evidence.

13 THE COURT: All right. Thank you. Just make  
14 sure the court officers have your cell phone  
15 numbers.

16 THE CLERK: I need to put one more thing on  
17 the record. The case always goes with the laptop  
18 that's provided by the Commonwealth of  
19 Massachusetts, that it's clean. That's the case  
20 here, correct?

21 MR. LALLY: Yes. All that's in there is a  
22 clean laptop, as well as a charger.

23 THE COURT: All right. We are still in  
24 session. Is the defense content?

25 MR. JACKSON: We're content. Yes.

1 THE COURT: No. There was another question.

2 MR. YANNETTI: I'm sorry.

3 THE CLERK: The laptop.

4 MR. YANNETTI: Yes, we are.

5 THE COURT: All right. Thank you.

6 (Whereupon, there was a luncheon recess taken.)

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A F T E R N O O N S E S S I O N

(Court resumes at 4:11 p.m.)

(Defendant present. Jury not present.)

THE COURT: All right. So I want to bring that alternate juror in. So that is what we are going to do first. And, actually, too, I came out here on three different occasions. I think it was one on verdict slips, one to send my charge in and nobody was around. Certainly by 10 minutes of 4:00, you all should have been around.

Please don't shake your head. Your lawyers probably don't want to see you shaking your head at me on that. All right, Ms. Read?

So tomorrow morning, counsel, all counsel must remain in the building from 9:00 until 10:00, at least, until I tell you you can leave, and, at the end of the day from 3:30 to 4:30, and we will take it from there. Okay?

Mr. Yannetti, you certainly know that when jurors are going out, oftentimes there are things that need to be done. So I would have liked to have talked to this juror before now.

MR. YANNETTI: Oh.

THE COURT: And I sent a note in to the jurors at 4:00. There was nobody here when I wanted to



1 send that note in. So there was a note that was  
2 sent to the jurors at 4:00 o'clock about whether  
3 they want to go home. They do want to go home.  
4 Okay?

5 MR. YANNETTI: That will not happen again.

6 Court Order: Jurors or Juror Issues  
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Court Order: Jurors or Juror Issues

Court Order: Jurors or Juror Issues

1 Court Order: Jurors or Juror Issues

12 THE COURT: Bring in all of the jurors.

13 (Whereupon, the jury entered the courtroom at  
14 4:22 p.m.)

15 THE COURT: All right, jurors. So as you  
16 know, I sent you in a note at 4:00, asking if you  
17 wanted to go home and come back tomorrow. You said  
18 yes. I apologize it took us so long to get  
19 everybody together to do this.

20 So I am going to excuse you for today. When  
21 you come back tomorrow, you will start again after  
22 coming into the courtroom. So I do have to give  
23 you those three cautions. And the cautions also  
24 concern the alternates. So please do not discuss  
25 this case or any aspect of this case with anybody.

1 Do not do any independent research or investigation  
2 into this case. If you happen to see, hear or read  
3 anything about this case, please disregard it and  
4 let us know.

5 You've all worked so hard for this last eight,  
6 nine, 10 weeks, however long it is. Let's just  
7 make sure that you continue to be as secure in how  
8 you've done things as you have been. We really  
9 appreciate it. So we will see you tomorrow  
10 morning. Have a good night.

11 (Whereupon, the jury exits the courtroom.)

12 (Whereupon, juror communication was entered and  
13 marked Exhibit "000" for Identification.)

14 THE COURT: All right. We'll see everybody  
15 tomorrow.

16 (Whereupon, the Court adjourned.)  
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C E R T I F I C A T E

I, Paula M. Mills, retired certified court reporter, do hereby certify that the foregoing pages, page 37-3 to 37-188, is a true and accurate transcription of the voice recording in the aforementioned matter to the best of my skill and ability.

This, the 5th day of February, 2025

\s\ Paula M. Mills

Paula M. Mills

Retired Certified Court Reporter  
and Court Transcriptionist